

House Bill 2049

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Land Use)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes regional land use planning commissions. Prescribes duties and powers of regional commissions. Provides that chairs of regional commissions constitute Land Conservation and Development Commission. Modifies duties and powers of commission.

A BILL FOR AN ACT

1
2 Relating to regional land use planning commissions; creating new provisions; and amending ORS
3 183.457, 183.530, 183.635, 195.020, 195.025, 195.040, 195.085, 195.120, 195.145, 195.260, 196.681,
4 197.015, 197.030, 197.040, 197.045, 197.047, 197.060, 197.070, 197.075, 197.080, 197.090, 197.095,
5 197.175, 197.180, 197.225, 197.251, 197.253, 197.254, 197.265, 197.274, 197.277, 197.283, 197.296,
6 197.299, 197.319, 197.320, 197.324, 197.328, 197.335, 197.340, 197.350, 197.352, 197.395, 197.445,
7 197.505, 197.610, 197.625, 197.626, 197.628, 197.629, 197.633, 197.636, 197.637, 197.638, 197.644,
8 197.646, 197.650, 197.656, 197.658, 197.712, 197.717, 197.768, 197.825, 197.835, 197.840, 215.213,
9 215.263, 215.275, 215.278, 215.282, 215.283, 215.304, 215.457, 215.459, 215.503, 215.740, 215.780,
10 223.317, 227.186, 244.050, 284.577, 285C.500, 308A.065, 308A.350, 308A.700, 383.017, 390.322,
11 468A.363, 469.320 and 469.504.

12 **Be It Enacted by the People of the State of Oregon:**

13 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 197.**

14 **SECTION 2. (1) There are established five regional land use planning commissions, each**
15 **consisting of seven members appointed by the Governor, subject to confirmation by the**
16 **Senate in the manner provided by ORS 171.562 and 171.565.**

17 **(2) One regional commission shall operate in each of the following areas:**

18 **(a) Region 1, which consists of Clatsop, Columbia, Coos, Curry, Lincoln and Tillamook**
19 **Counties and those portions of Douglas and Lane Counties lying west of the summit of the**
20 **Coast Range;**

21 **(b) Region 2, which consists of Clackamas, Multnomah and Washington Counties;**

22 **(c) Region 3, which consists of Benton, Linn, Marion, Polk and Yamhill Counties and that**
23 **portion of Lane County lying east of the summit of the Coast Range;**

24 **(d) Region 4, which consists of Jackson and Josephine Counties and that portion of**
25 **Douglas County lying east of the summit of the Coast Range; and**

26 **(e) Region 5, which consists of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood**
27 **River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa,**
28 **Wasco and Wheeler Counties.**

29 **(3) The term of office of each member of a regional commission is four years, but a**
30 **member may be removed by the Governor for cause. Before the expiration of the term of a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 member, the Governor shall appoint a successor. A person may not serve more than two full
 2 terms as a member of a commission.

3 (4) The members of a regional commission shall elect a chair from among the members.

4 (5) If there is a vacancy for any cause, the Governor shall make an appointment to be-
 5 come immediately effective for the unexpired term.

6 (6) Pursuant to ORS chapters 195, 196 and 197, a regional commission shall:

7 (a) Adopt, amend and revise rules necessary for the implementation of statewide land
 8 use planning goals in the region;

9 (b) Review comprehensive plans and regional framework plans for compliance with the
 10 statewide land use planning goals;

11 (c) Prepare, collect, provide or cause to be prepared, collected or provided land use in-
 12 ventories for the region;

13 (d) Coordinate planning efforts of state agencies within the region to ensure compliance
 14 with goals and compatibility with city and county comprehensive plans;

15 (e) Ensure widespread citizen involvement and input in all phases of the process;

16 (f) Review and recommend to the Land Conservation and Development Commission the
 17 designation of areas within the region of critical state concern;

18 (g) In accordance with the provisions of ORS chapter 183, adopt rules that the regional
 19 commission considers necessary to carry out its duties under ORS chapters 195, 196 and 197.
 20 Except as provided in subsection (7) of this section, in designing its administrative require-
 21 ments, a regional commission shall:

22 (A) Allow for the diverse administrative and planning capabilities of local governments;

23 (B) Assess what economic and property interests will be, or are likely to be, affected by
 24 a proposed rule;

25 (C) Assess the likely degree of economic impact on identified property and economic in-
 26 terests; and

27 (D) Assess whether alternative actions are available that would achieve the underlying
 28 lawful governmental objective and would have a lesser economic impact;

29 (h) Cooperate with the appropriate agencies of the United States, this state and its poli-
 30 tical subdivisions, any other state, any interstate agency and any person or groups of per-
 31 sons with respect to land conservation and development;

32 (i) Appoint advisory committees to aid the regional commission in carrying out ORS
 33 chapters 195, 196 and 197, and provide technical and other assistance, as it considers neces-
 34 sary, to each such committee; and

35 (j) Perform other duties required by law.

36 (7) The requirements of subsection (6)(g) of this section may not be interpreted as re-
 37 quiring an assessment for each lot or parcel that could be affected by a proposed rule.

38 **SECTION 3.** ORS 197.015 is amended to read:

39 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

40 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
 41 land use regulations, land use regulation or plan or regulation amendment complies with the goals
 42 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
 43 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
 44 work plan comply with the statewide planning goals.

45 (2) "Board" means the Land Use Board of Appeals.

1 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more
 2 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

3 (4) "Commission" means the Land Conservation and Development Commission.

4 (5) "Committee" means the Joint Legislative Committee on Land Use.

5 (6) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
 6 of the governing body of a local government that interrelates all functional and natural systems and
 7 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
 8 portation systems, educational facilities, recreational facilities, and natural resources and air and
 9 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
 10 geographic area covered and functional and natural activities and systems occurring in the area
 11 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
 12 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
 13 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
 14 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
 15 water, both surface and subsurface, and the air.

16 (7) "Department" means the Department of Land Conservation and Development.

17 (8) "Director" means the Director of the Department of Land Conservation and Development.

18 (9) "Goals" means the mandatory statewide **land use** planning standards adopted by the com-
 19 mission pursuant to ORS chapters 195, 196 and 197.

20 (10) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
 21 adoption and implementation of comprehensive plans in compliance with goals and to aid state
 22 agencies and special districts in the preparation, adoption and implementation of plans, programs
 23 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
 24 agencies, cities, counties and special districts to a single approach.

25 (11) "Land use decision":

26 (a) Includes:

27 (A) A final decision or determination made by a local government or special district that con-
 28 cerns the adoption, amendment or application of:

29 (i) The goals;

30 (ii) A comprehensive plan provision;

31 (iii) A land use regulation; or

32 (iv) A new land use regulation;

33 (B) A final decision or determination of a state agency other than the commission **or a regional**
 34 **commission** with respect to which the agency is required to apply the goals; or

35 (C) A decision of a county planning commission made under ORS 433.763;

36 (b) Does not include a decision of a local government:

37 (A) That is made under land use standards that do not require interpretation or the exercise
 38 of policy or legal judgment;

39 (B) That approves or denies a building permit issued under clear and objective land use stan-
 40 dards;

41 (C) That is a limited land use decision;

42 (D) That determines final engineering design, construction, operation, maintenance, repair or
 43 preservation of a transportation facility that is otherwise authorized by and consistent with the
 44 comprehensive plan and land use regulations;

45 (E) That is an expedited land division as described in ORS 197.360; or

1 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
 2 of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
 3 under ORS 480.410 to 480.460;

4 (c) Does not include a decision by a school district to close a school;

5 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or
 6 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120
 7 hours in any three-month period; and

8 (e) Does not include:

9 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
 10 or

11 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
 12 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

13 (12) "Land use regulation" means any local government zoning ordinance, land division ordi-
 14 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
 15 implementing a comprehensive plan.

16 (13) "Limited land use decision" is a final decision or determination made by a local government
 17 pertaining to a site within an urban growth boundary that concerns:

18 (a) The approval or denial of a tentative subdivision or partition plan, as described in ORS
 19 92.040 (1).

20 (b) The approval or denial of an application based on discretionary standards designed to regu-
 21 late the physical characteristics of a use permitted outright, including but not limited to site review
 22 and design review.

23 (14) "Local government" means any city, county or metropolitan service district formed under
 24 ORS chapter 268 or an association of local governments performing land use planning functions
 25 under ORS 195.025.

26 (15) "Metro" means a metropolitan service district organized under ORS chapter 268.

27 (16) "Metro planning goals and objectives" means the land use goals and objectives that a met-
 28 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
 29 stitute a comprehensive plan.

30 (17) "Metro regional framework plan" means the regional framework plan required by the 1992
 31 Metro Charter or its separate components. Neither the regional framework plan nor its individual
 32 components constitute a comprehensive plan.

33 (18) "New land use regulation" means a land use regulation other than an amendment to an
 34 acknowledged land use regulation adopted by a local government that already has a comprehensive
 35 plan and land regulations acknowledged under ORS 197.251.

36 (19) "Person" means any individual, partnership, corporation, association, governmental subdi-
 37 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
 38 opment Commission, or its designee [is], **and a regional commission established under section 2**
 39 **of this 2007 Act are** considered [*a person*] **persons** for purposes of appeal under ORS chapters 195
 40 and 197.

41 **(20) "Regional commission" means a regional land use planning commission established**
 42 **under section 2 of this 2007 Act.**

43 [(20)] (21) "Special district" means any unit of local government, other than a city, county,
 44 metropolitan service district formed under ORS chapter 268 or an association of local governments
 45 performing land use planning functions under ORS 195.025, authorized and regulated by statute and

1 includes but is not limited to water control districts, domestic water associations and water coop-
 2 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
 3 school districts, hospital districts, mass transit districts and sanitary districts.

4 [(21)] (22) “Voluntary association of local governments” means a regional planning agency in
 5 this state officially designated by the Governor pursuant to the federal Office of Management and
 6 Budget Circular A-95 as a regional clearinghouse.

7 [(22)] (23) “Wetlands” means those areas that are inundated or saturated by surface or ground
 8 water at a frequency and duration that are sufficient to support, and that under normal circum-
 9 stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

10 **SECTION 4.** ORS 197.015, as amended by section 8, chapter 829, Oregon Laws 2005, is amended
 11 to read:

12 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

13 (1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and
 14 land use regulations, land use regulation or plan or regulation amendment complies with the goals
 15 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
 16 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
 17 work plan comply with the statewide planning goals.

18 (2) “Board” means the Land Use Board of Appeals.

19 (3) “Carport” means a stationary structure consisting of a roof with its supports and not more
 20 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

21 (4) “Commission” means the Land Conservation and Development Commission.

22 (5) “Committee” means the Joint Legislative Committee on Land Use.

23 (6) “Comprehensive plan” means a generalized, coordinated land use map and policy statement
 24 of the governing body of a local government that interrelates all functional and natural systems and
 25 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
 26 portation systems, educational facilities, recreational facilities, and natural resources and air and
 27 water quality management programs. “Comprehensive” means all-inclusive, both in terms of the
 28 geographic area covered and functional and natural activities and systems occurring in the area
 29 covered by the plan. “General nature” means a summary of policies and proposals in broad catego-
 30 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is “co-
 31 ordinated” when the needs of all levels of governments, semipublic and private agencies and the
 32 citizens of Oregon have been considered and accommodated as much as possible. “Land” includes
 33 water, both surface and subsurface, and the air.

34 (7) “Department” means the Department of Land Conservation and Development.

35 (8) “Director” means the Director of the Department of Land Conservation and Development.

36 (9) “Goals” means the mandatory statewide **land use** planning standards adopted by the com-
 37 mission pursuant to ORS chapters 195, 196 and 197.

38 (10) “Guidelines” means suggested approaches designed to aid cities and counties in preparation,
 39 adoption and implementation of comprehensive plans in compliance with goals and to aid state
 40 agencies and special districts in the preparation, adoption and implementation of plans, programs
 41 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
 42 agencies, cities, counties and special districts to a single approach.

43 (11) “Land use decision”:

44 (a) Includes:

45 (A) A final decision or determination made by a local government or special district that con-

1 cerns the adoption, amendment or application of:

- 2 (i) The goals;
- 3 (ii) A comprehensive plan provision;
- 4 (iii) A land use regulation; or
- 5 (iv) A new land use regulation;
- 6 (B) A final decision or determination of a state agency other than the commission **or a regional**
- 7 **commission** with respect to which the agency is required to apply the goals; or
- 8 (C) A decision of a county planning commission made under ORS 433.763;
- 9 (b) Does not include a decision of a local government:
- 10 (A) That is made under land use standards that do not require interpretation or the exercise
- 11 of policy or legal judgment;
- 12 (B) That approves or denies a building permit issued under clear and objective land use stan-
- 13 dards;
- 14 (C) That is a limited land use decision;
- 15 (D) That determines final engineering design, construction, operation, maintenance, repair or
- 16 preservation of a transportation facility that is otherwise authorized by and consistent with the
- 17 comprehensive plan and land use regulations;
- 18 (E) That is an expedited land division as described in ORS 197.360; or
- 19 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
- 20 of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
- 21 under ORS 480.410 to 480.460;
- 22 (c) Does not include a decision by a school district to close a school;
- 23 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or
- 24 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120
- 25 hours in any three-month period; and
- 26 (e) Does not include:
- 27 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
- 28 or
- 29 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
- 30 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.
- 31 (12) "Land use regulation" means any local government zoning ordinance, land division ordi-
- 32 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
- 33 implementing a comprehensive plan.
- 34 (13) "Limited land use decision" is a final decision or determination made by a local government
- 35 pertaining to a site within an urban growth boundary that concerns:
- 36 (a) The approval or denial of a tentative subdivision or partition plan, as described in ORS
- 37 92.040 (1).
- 38 (b) The approval or denial of an application based on discretionary standards designed to regu-
- 39 late the physical characteristics of a use permitted outright, including but not limited to site review
- 40 and design review.
- 41 (14) "Local government" means any city, county or metropolitan service district formed under
- 42 ORS chapter 268 or an association of local governments performing land use planning functions
- 43 under ORS 195.025.
- 44 (15) "Metro" means a metropolitan service district organized under ORS chapter 268.
- 45 (16) "Metro planning goals and objectives" means the land use goals and objectives that a met-

1 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
2 stitute a comprehensive plan.

3 (17) “Metro regional framework plan” means the regional framework plan required by the 1992
4 Metro Charter or its separate components. Neither the regional framework plan nor its individual
5 components constitute a comprehensive plan.

6 (18) “New land use regulation” means a land use regulation other than an amendment to an
7 acknowledged land use regulation adopted by a local government that already has a comprehensive
8 plan and land regulations acknowledged under ORS 197.251.

9 (19) “Person” means any individual, partnership, corporation, association, governmental subdi-
10 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
11 opment Commission, or its designee *[is]*, **and a regional commission established under section 2**
12 **of this 2007 Act are** considered *[a person]* **persons** for purposes of appeal under ORS chapters 195
13 and 197.

14 (20) **“Regional commission” means a regional land use planning commission established**
15 **under section 2 of this 2007 Act.**

16 [(20)] (21) “Special district” means any unit of local government, other than a city, county,
17 metropolitan service district formed under ORS chapter 268 or an association of local governments
18 performing land use planning functions under ORS 195.025, authorized and regulated by statute and
19 includes but is not limited to water control districts, domestic water associations and water coop-
20 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
21 school districts, hospital districts, mass transit districts and sanitary districts.

22 [(21)] (22) “Urban unincorporated community” means an area designated in a county’s ac-
23 knowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

24 [(22)] (23) “Voluntary association of local governments” means a regional planning agency in
25 this state officially designated by the Governor pursuant to the federal Office of Management and
26 Budget Circular A-95 as a regional clearinghouse.

27 [(23)] (24) “Wetlands” means those areas that are inundated or saturated by surface or ground
28 water at a frequency and duration that are sufficient to support, and that under normal circum-
29 stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

30 **SECTION 5.** ORS 197.030 is amended to read:

31 197.030. [(1)] There is established a Land Conservation and Development Commission [*consisting*
32 *of seven members appointed by the Governor, subject to confirmation by the Senate pursuant to section*
33 *4, Article III, Oregon Constitution*]. **The members of the commission are the chairs of the five**
34 **regional commissions.**

35 [(2) *The Governor shall appoint to the commission;*]

36 [(a) *One member representing Clatsop, Columbia, Coos, Curry, Lincoln and Tillamook Counties and*
37 *those portions of Douglas and Lane Counties lying west of the summit of the Coast Range;*]

38 [(b) *Two members representing Clackamas, Multnomah and Washington Counties;*]

39 [(c) *One member representing Benton, Linn, Marion, Polk and Yamhill Counties and that portion*
40 *of Lane County lying east of the summit of the Coast Range;*]

41 [(d) *One member representing Jackson and Josephine Counties and that portion of Douglas County*
42 *lying east of the summit of the Coast Range;*]

43 [(e) *One member representing Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River,*
44 *Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler*
45 *Counties; and]*

1 *[(f) One member representing Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and*
 2 *Yamhill Counties and that portion of Lane County lying east of the summit of the Coast Range.]*

3 *[(3) At least one member shall be or have been an elected city official in Oregon and at least one*
 4 *member shall be an elected county official at the time of appointment.]*

5 *[(4) The term of office of each member of the commission is four years, but a member may be re-*
 6 *moved by the Governor for cause. Before the expiration of the term of a member, the Governor shall*
 7 *appoint a successor. No person shall serve more than two full terms as a member of the commission.]*

8 *[(5) If there is a vacancy for any cause, the Governor shall make an appointment to become im-*
 9 *mediately effective for the unexpired term.]*

10 **SECTION 6.** ORS 197.040 is amended to read:

11 197.040. (1) The Land Conservation and Development Commission shall:

12 (a) Direct the performance by **the regional commissions established by section 2 of this 2007**
 13 **Act**, the Director of the Department of Land Conservation and Development and the director's staff
 14 of their functions under ORS chapters 195, 196 and 197.

15 (b) In accordance with the provisions of ORS chapter 183, adopt rules that it considers neces-
 16 sary to *[carry out ORS chapters 195, 196 and 197. Except as provided in subsection (3) of this section,*
 17 *in designing its administrative requirements, the commission shall]:*

18 **(A) Establish administrative requirements and procedures to guide the regional commis-**
 19 **sions in the oversight of the implementation of the statewide land use planning goals in their**
 20 **respective regions; and**

21 **(B) Guide the director and the Department of Land Conservation and Development in**
 22 **performing their duties.**

23 *[(A) Allow for the diverse administrative and planning capabilities of local governments;]*

24 *[(B) Assess what economic and property interests will be, or are likely to be, affected by the pro-*
 25 *posed rule;]*

26 *[(C) Assess the likely degree of economic impact on identified property and economic interests;*
 27 *and]*

28 *[(D) Assess whether alternative actions are available that would achieve the underlying lawful*
 29 *governmental objective and would have a lesser economic impact.]*

30 (c)(A) Adopt by rule in accordance with ORS chapter 183 or by goal under ORS chapters 195,
 31 196 and 197 any statewide land use policies that it considers necessary to carry out ORS chapters
 32 195, 196 and 197.

33 (B) Adopt by rule in accordance with ORS chapter 183 any procedures necessary to carry out
 34 ORS 215.402 (4)(b) and 227.160 (2)(b).

35 (C) Review decisions of the Land Use Board of Appeals and land use decisions of the Court of
 36 Appeals and the Supreme Court within 120 days of the date the decisions are issued to determine
 37 if goal or rule amendments are necessary.

38 (d) Cooperate with the appropriate agencies of the United States, this state and its political
 39 subdivisions, any other state, any interstate agency, any person or groups of persons with respect
 40 to land conservation and development.

41 (e) Appoint advisory committees to aid it in carrying out ORS chapters 195, 196 and 197 and
 42 provide technical and other assistance, as it considers necessary, to each such committee.

43 (2) Pursuant to ORS chapters 195, 196 and 197, the commission shall:

44 (a) Adopt, amend and revise goals consistent with regional, county and city concerns;

45 *[(b) Prepare, collect, provide or cause to be prepared, collected or provided land use inventories;]*

- 1 [(c)] **(b)** Prepare statewide planning guidelines;
- 2 [(d)] *Review comprehensive plans for compliance with goals;*
- 3 [(e)] *Coordinate planning efforts of state agencies to assure compliance with goals and compatibility*
- 4 *with city and county comprehensive plans;*
- 5 [(f)] **(c)** [*Insure*] **Ensure** widespread citizen involvement and input in all phases of the process;
- 6 [(g)] **(d)** Review and recommend to the Legislative Assembly the designation of areas of critical
- 7 state concern;
- 8 [(h)] **(e)** Report periodically to the Legislative Assembly and to the committee;
- 9 **(f) Review the activities of regional commissions to ensure that rules and decisions of**
- 10 **each regional commission are consistent with the statewide land use planning goals;** and
- 11 [(i)] **(g)** Perform other duties required by law.
- 12 [(3)] *The requirements of subsection (1)(b) of this section shall not be interpreted as requiring an*
- 13 *assessment for each lot or parcel that could be affected by the proposed rule.]*
- 14 **SECTION 7.** ORS 197.045 is amended to read:
- 15 197.045. **(1)** The Land Conservation and Development Commission **or a regional commission**
- 16 may:
- 17 [(1)] **(a)** Apply for and receive moneys from the federal government and from this state or any
- 18 of its agencies or departments.
- 19 [(2)] **(b)** Contract with any public agency for the performance of services or the exchange of
- 20 employees or services by one to the other necessary in carrying out **its duties under** ORS chapters
- 21 195, 196 and 197.
- 22 [(3)] **(c)** Contract for the services of and consultation with professional persons or organizations,
- 23 not otherwise available through federal, state and local governmental agencies, in carrying out its
- 24 duties under ORS chapters 195, 196 and 197.
- 25 [(4)] **(d)** Perform other functions required to carry out **its duties under** ORS chapters 195, 196
- 26 and 197.
- 27 [(5)] **(e)** Assist in development and preparation of model land use regulations to guide state
- 28 agencies, cities, counties and special districts in implementing goals.
- 29 [(6)] **(2)** Notwithstanding any other provision of law, **the regional commission for the region**
- 30 **may** review comprehensive plan and land use regulations related to the identification and desig-
- 31 nation of high-value farmland **in the region** pursuant to chapter 792, Oregon Laws 1993, under
- 32 procedures set forth in ORS 197.251.
- 33 **SECTION 8.** ORS 197.047 is amended to read:
- 34 197.047. (1) As used in this section, “owner” means the owner of the title to real property or the
- 35 contract purchaser of real property, of record as shown on the last available complete tax assess-
- 36 ment roll.
- 37 (2) At least 90 days prior to the final public hearing on a proposed new or amended adminis-
- 38 trative rule of [*the Land Conservation and Development Commission*] **a regional commission** de-
- 39 scribed in subsection (10) of this section, the Department of Land Conservation and Development
- 40 shall cause the notice set forth in subsection (3) of this section to be mailed to every affected local
- 41 government that exercises land use planning authority under ORS 197.175.
- 42 (3) The notice required in subsection (2) of this section must:
- 43 (a) Contain substantially the following language in boldfaced type across the top of the face
- 44 page extending from the left margin to the right margin:
- 45

1
2 This is to notify you that the [*Land Conservation and Development Commission*] **regional land**
3 **use planning commission for the region** has proposed a new or amended administrative rule that,
4 if adopted, may affect the permissible uses of properties in your jurisdiction.

5 _____
6
7 (b) Contain substantially the following language in the body of the notice:
8 _____

9
10 On (date of public hearing), the [*Land Conservation and Development Commission*] **regional land**
11 **use planning commission for the region** will hold a public hearing regarding adoption of proposed
12 (new or amended) rule (number). Adoption of the rule may change the zoning classification of prop-
13 erties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in
14 your jurisdiction.

15 Rule (number) is available for inspection at the Department of Land Conservation and Devel-
16 opment located at (address). A copy of the proposed rule (number) also is available for purchase at
17 a cost of \$_____.

18 For additional information, contact the Department of Land Conservation and Development at
19 (telephone number).
20 _____

21
22 (4) A local government that receives notice under subsection (2) of this section shall cause the
23 notice set forth in subsection (5) of this section to be mailed to every owner of real property that
24 will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be
25 mailed at least 45 days prior to the final public hearing on the proposed rule.

26 (5) The notice required in subsection (4) of this section must:

27 (a) Contain substantially the following language in boldfaced type across the top of the face
28 page extending from the left margin to the right margin:
29 _____

30
31 This is to notify you that the [*Land Conservation and Development Commission*] **regional land**
32 **use planning commission for the region** has proposed a new or amended administrative rule that,
33 if adopted, may affect the permissible uses of your property and other properties.
34 _____

35
36 (b) Contain substantially the following language in the body of the notice:
37 _____

38
39 On (date of public hearing), the [*Land Conservation and Development Commission*] **regional land**
40 **use planning commission for the region** will hold a public hearing regarding adoption of proposed
41 (new or amended) rule (number). Adoption of the rule may affect the permissible uses of your prop-
42 erty, and other properties in the affected zone, and may change the value of your property.

43 Rule (number) is available for inspection at the Department of Land Conservation and Devel-
44 opment located at (address). A copy of the proposed rule (number) also is available for purchase at
45 a cost of \$_____.

1 For additional information, contact the Department of Land Conservation and Development at
2 (telephone number).

3
4
5 (6) At least 90 days prior to the effective date of a new or amended statute or administrative
6 rule described in subsection (10) of this section, the department shall cause the notice set forth in
7 subsection (7) of this section to be mailed to every affected local government that exercises land use
8 planning authority under ORS 197.175 unless the statute or rule is effective within 90 days of
9 enactment or adoption, in which case the department shall cause the notice to be mailed not later
10 than 30 days after the statute or rule is effective.

11 (7) The notice required in subsection (6) of this section must:

12 (a) Contain substantially the following language in boldfaced type across the top of the face
13 page extending from the left margin to the right margin:

14
15
16 (Check on the appropriate line:)

17 _____ This is to notify you that the [*Land Conservation and Development Commission*] **re-**
18 **gional land use planning commission for the region** has adopted an administrative rule that may
19 affect the permissible uses of properties in your jurisdiction; or

20 _____ This is to notify you that the Legislative Assembly has enacted a land use planning
21 statute that may affect the permissible uses of properties in your jurisdiction.

22
23
24 (b) Contain substantially the following language in the body of the notice:

25
26
27 (Check on the appropriate line:)

28 _____ On (date of rule adoption), the [*Land Conservation and Development Commission*] **re-**
29 **gional land use planning commission for the region** adopted administrative rule (number). The
30 [*commission*] **regional commission for the region** has determined that this rule may change the
31 zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously
32 allowed on properties in your jurisdiction.

33 Rule (number) is available for inspection at the Department of Land Conservation and Devel-
34 opment located at (address). A copy of the rule (number) also is available for purchase at a cost of
35 \$_____.

36 For additional information, contact the Department of Land Conservation and Development at
37 (telephone number); or

38 _____ On (date of enactment) the Legislative Assembly enacted (House/Senate bill number).
39 The Department of Land Conservation and Development has determined that enactment of
40 (House/Senate bill number) may change the zoning classification of properties in your jurisdiction
41 or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

42 A copy of (House/Senate bill number) is available for inspection at the Department of Land
43 Conservation and Development located at (address). A copy of (House/Senate bill number) also is
44 available for purchase at a cost of \$_____.

45 For additional information, contact the Department of Land Conservation and Development at

1 (telephone number).

2 _____
3
4 (8) A local government that receives notice under subsection (6) of this section shall cause a
5 copy of the notice set forth in subsection (9) of this section to be mailed to every owner of real
6 property that will be rezoned as a result of adoption of the rule or enactment of the statute, unless
7 notification was provided pursuant to subsection (4) of this section. The local government shall mail
8 the notice to an owner under this subsection at least 45 days prior to the effective date of the rule
9 or statute unless the statute or rule is effective within 90 days of enactment or adoption, in which
10 case the local government shall mail the notice to an owner under this subsection not later than
11 30 days after the local government receives notice under subsection (6) of this section.

12 (9) The notice required in subsection (8) of this section must:

13 (a) Contain substantially the following language in boldfaced type across the top of the face
14 page extending from the left margin to the right margin:
15 _____

16
17 (Check on the appropriate line:)

18 _____ This is to notify you that the [*Land Conservation and Development Commission*] **re-**
19 **gional land use planning commission for the region** has adopted an administrative rule that may
20 affect the permissible uses of your property and other properties; or

21 _____ This is to notify you that the Legislative Assembly has enacted a land use planning
22 statute that may affect the permissible uses of your property and other properties.
23 _____

24
25 (b) Contain substantially the following language in the body of the notice:
26 _____

27
28 (Check on the appropriate line:)

29 _____ On (date of rule adoption), the [*Land Conservation and Development Commission*] **re-**
30 **gional land use planning commission for the region** adopted administrative rule (number). The
31 rule may affect the permissible uses of your property, and other properties in the affected zone, and
32 may change the value of your property.

33 Rule (number) is available for inspection at the Department of Land Conservation and Devel-
34 opment located at (address). A copy of the rule (number) also is available for purchase at a cost of
35 \$_____.

36 For additional information, contact the Department of Land Conservation and Development at
37 (telephone number); or

38 _____ On (date of enactment) the Legislative Assembly enacted (House/Senate bill number).
39 The Department of Land Conservation and Development has determined that enactment of
40 (House/Senate bill number) may affect the permissible uses of your property, and other properties
41 in the affected zone, and may change the value of your property.

42 A copy of (House/Senate bill number) is available for inspection at the Department of Land
43 Conservation and Development located at (address). A copy of (House/Senate bill number) also is
44 available for purchase at a cost of \$_____.

45 For additional information, contact the Department of Land Conservation and Development at

1 (telephone number).

2
3
4 (10) The provisions of this section apply to all statutes and administrative rules of the [*Land*
5 *Conservation and Development Commission*] **regional commission for the region** that limit or pro-
6 hibit otherwise permissible land uses or cause a local government to rezone property. For purposes
7 of this section, property is rezoned when the statute or administrative rule causes a local govern-
8 ment to:

9 (a) Change the base zoning classification of the property; or

10 (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously al-
11 lowed in the affected zone.

12 (11) The Department of Land Conservation and Development shall reimburse the local govern-
13 ment for:

14 (a) The actual costs incurred responding to questions from the public related to a proposed new
15 or amended administrative rule of the [*Land Conservation and Development Commission*] **regional**
16 **commission for the region** and to notice of the proposed rule; and

17 (b) All usual and reasonable costs of providing the notices required under subsection (4) or (8)
18 of this section.

19 **SECTION 9.** ORS 197.060 is amended to read:

20 197.060. (1) Prior to the end of each even-numbered year, the Department of Land Conservation
21 and Development shall prepare a written report for submission to the Legislative Assembly of the
22 State of Oregon describing activities and accomplishments of the department, Land Conservation
23 and Development Commission, **regional commissions**, state agencies, local governments and special
24 districts in carrying out ORS chapters 195, 196 and 197.

25 (2) A draft of the report required by subsection (1) of this section shall be submitted to the Joint
26 Legislative Committee on Land Use for its review and comment at least 60 days prior to submission
27 of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the
28 final report.

29 (3) Goals and guidelines adopted by the commission shall be included in the report to the Leg-
30 islative Assembly submitted under subsection (1) of this section.

31 (4) The department shall include in its biennial report:

32 (a) A description of its activities implementing ORS 197.631; and

33 (b) An accounting of new statutory, land use planning goal and rule requirements and local
34 government compliance with the new requirements pursuant to ORS 197.646.

35 **SECTION 10.** ORS 197.070 is amended to read:

36 197.070. (1) The Land Conservation and Development Commission shall keep on file and avail-
37 able for public inspection the assessments prepared pursuant to ORS [*197.040 and*] 197.230.

38 (2) **A regional commission shall keep on file and available for public inspection the as-**
39 **essments prepared pursuant to section 2 (6)(g) of this 2007 Act.**

40 **SECTION 11.** ORS 197.075 is amended to read:

41 197.075. The Department of Land Conservation and Development is established. The department
42 shall consist of the Land Conservation and Development Commission, **the regional commissions**,
43 the Director of the Department of Land Conservation and Development and their subordinate offi-
44 cers and employees.

45 **SECTION 12.** ORS 197.080 is amended to read:

1 197.080. The Department of Land Conservation and Development shall report monthly to the
2 Joint Legislative Committee on Land Use in order to keep the committee informed on progress made
3 by the department, Land Conservation and Development Commission, **regional commissions**, local
4 governments and other agencies in carrying out ORS chapters 195, 196 and 197.

5 **SECTION 13.** ORS 197.090 is amended to read:

6 197.090. (1) Subject to policies adopted by the Land Conservation and Development Commission,
7 the Director of the Department of Land Conservation and Development shall:

8 (a) Be the administrative head of the Department of Land Conservation and Development.

9 (b) Coordinate the activities of the department in its land conservation and development func-
10 tions with such functions of federal agencies, other state agencies, local governments and special
11 districts.

12 (c) Appoint, reappoint, assign and reassign all subordinate officers and employees of the de-
13 partment, prescribe their duties and fix their compensation, subject to the State Personnel Relations
14 Law.

15 (d) Represent this state before any agency of this state, any other state or the United States
16 with respect to land conservation and development within this state.

17 (e) Provide clerical and other necessary support services for the board.

18 (2)(a) Subject to local government requirements and the provisions of ORS 197.830 to 197.845,
19 the director may participate in and seek review of a land use decision, expedited land division or
20 limited land use decision involving the goals, acknowledged comprehensive plan or land use regu-
21 lation or other matter within the statutory authority of the department, **the commission or a re-**
22 **gional commission** under ORS chapters 195, 196 and 197. The director shall report to the commission
23 **or the regional commission, as appropriate**, on each case in which the department participates
24 and on the positions taken by the director in each case.

25 (b) If a meeting of the **regional commission for the region** is scheduled prior to the close of the
26 period for seeking review of a land use decision, expedited land division or limited land use decision
27 **in the region**, the director shall obtain formal approval from the **regional commission** prior to
28 seeking review of the decision. However, if the land use decision, expedited land division or limited
29 land use decision becomes final less than 15 days before a meeting of the **regional commission**, the
30 director shall proceed as provided in paragraph (c) of this subsection. If the director requests ap-
31 proval from the **regional commission**, the applicant and the affected local government shall be no-
32 tified in writing that the director is seeking **regional commission** approval. The director, the
33 applicant and the affected local government shall be given reasonable time to address the **regional**
34 **commission** regarding the director's request for approval to seek review. The parties shall limit their
35 testimony to the factors established under subsection (3) of this section. No other testimony shall
36 be taken by the **regional commission**.

37 (c) If a meeting of the **regional commission for the region** is not scheduled prior to the close
38 of the period for seeking review of a land use decision, expedited land division or limited land use
39 decision **in the region**, at the next **regional commission** meeting the director shall report to the
40 **regional commission** on each case for which the department has sought review. The director shall
41 request formal approval to proceed with each appeal. The applicant and the affected local govern-
42 ment shall be notified of the **regional commission** meeting in writing by the director. The director,
43 the applicant and the affected local government shall be given reasonable time to address the **re-**
44 **gional commission** regarding the director's request for approval to proceed with the appeal. The
45 parties shall limit their testimony to the factors established under subsection (3) of this section. No

1 other testimony shall be taken by the **regional** commission. If the **regional** commission does not
 2 formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss
 3 the appeal.

4 (d) A decision by [*the*] a **regional** commission under this subsection is not subject to appeal.

5 (e) For purposes of this subsection, “applicant” means a person seeking approval of a permit,
 6 as defined in ORS 215.402 or 227.160, expedited land division or limited land use decision.

7 (3) The commission by rule shall adopt a set of factors for [*the*] a **regional** commission to con-
 8 sider when determining whether to appeal or intervene in the appeal of a land use decision, expe-
 9 dited land division or limited land use decision that involves the application of the goals,
 10 acknowledged comprehensive plan, land use regulation or other matter within the authority of the
 11 department [*or commission*] under ORS chapters 195, 196 and 197.

12 (4) The director may intervene in an appeal of a land use decision, expedited land division or
 13 limited land use decision brought by another person in the manner provided for an appeal by the
 14 director under subsection (2)(b) and (c) of this section.

15 **SECTION 14.** ORS 197.095 is amended to read:

16 197.095. (1) There is established in the General Fund in the State Treasury the Land Conserva-
 17 tion and Development Account. Moneys in the account are continuously appropriated **to the De-**
 18 **partment of Land Conservation and Development** for the purpose of carrying out ORS chapters
 19 195, 196 and 197.

20 (2) All fees, moneys and other revenue received by the Department of Land Conservation and
 21 Development or the Joint Legislative Committee on Land Use shall be deposited in the Land Con-
 22 servation and Development Account.

23 **SECTION 15.** ORS 197.175 is amended to read:

24 197.175. (1) Cities and counties shall exercise their planning and zoning responsibilities, includ-
 25 ing, but not limited to, a city or special district boundary change which shall mean the annexation
 26 of unincorporated territory by a city, the incorporation of a new city and the formation or change
 27 of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410
 28 to 199.534 or 451.010 to 451.620, in accordance with ORS chapters 195, 196 and 197 and the goals
 29 approved under ORS chapters 195, 196 and 197. The [*Land Conservation and Development Commis-*
 30 *sion*] **regional commissions** shall adopt rules clarifying how the goals apply to the incorporation
 31 of a new city. [*Notwithstanding the provisions of section 15, chapter 827, Oregon Laws 1983, the rules*
 32 *shall take effect upon adoption by the commission. The applicability of rules promulgated under this*
 33 *section to the incorporation of cities prior to August 9, 1983, shall be determined under the laws of this*
 34 *state.*]

35 (2) Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

36 (a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved
 37 by the commission;

38 (b) Enact land use regulations to implement their comprehensive plans;

39 (c) If its comprehensive plan and land use regulations have not been acknowledged by the **re-**
 40 **gional commission for the region**, make land use decisions and limited land use decisions in com-
 41 pliance with the goals;

42 (d) If its comprehensive plan and land use regulations have been acknowledged by the **regional**
 43 **commission for the region**, make land use decisions and limited land use decisions in compliance
 44 with the acknowledged plan and land use regulations; and

45 (e) Make land use decisions and limited land use decisions subject to an unacknowledged

1 amendment to a comprehensive plan or land use regulation in compliance with those land use goals
2 applicable to the amendment.

3 (3) Notwithstanding subsection (1) of this section, **neither** the commission [*shall not*] **nor a re-**
4 **gional commission may** initiate by its own action any annexation of unincorporated territory
5 pursuant to ORS 222.111 to 222.750 or formation of and annexation of territory to any district au-
6 thorized by ORS 198.510 to 198.915 or 451.010 to 451.620.

7 **SECTION 16.** ORS 197.180 is amended to read:

8 197.180. (1) Except as provided in ORS 197.277 or subsection (2) of this section or unless ex-
9 pressly exempted by another statute from any of the requirements of this section, state agencies
10 shall carry out their planning duties, powers and responsibilities and take actions that are author-
11 ized by law with respect to programs affecting land use:

12 (a) In compliance with goals adopted or amended pursuant to ORS chapters 195, 196 and 197;
13 and

14 (b) In a manner compatible with:

15 (A) Comprehensive plans and land use regulations initially acknowledged under ORS 197.251;

16 (B) Amendments to acknowledged comprehensive plans or land use regulations or new land use
17 regulations acknowledged under ORS 197.625; and

18 (C) Amendments to acknowledged comprehensive plans or land use regulations or new land use
19 regulations acknowledged through periodic review.

20 (2) State agencies need not comply with subsection (1)(b) of this section if the comprehensive
21 plan or land use regulations are inconsistent with a state agency plan or program relating to land
22 use that was not in effect at the time the local plan was acknowledged, and the agency has dem-
23 onstrated:

24 (a) That the plan or program is mandated by state statute or federal law;

25 (b) That the plan or program is consistent with the goals;

26 (c) That the plan or program has objectives that cannot be achieved in a manner consistent with
27 the comprehensive plan and land use regulations; and

28 (d) That the agency has complied with its certified state agency coordination program.

29 (3) Upon request by [*the Land Conservation and Development*] **a regional** commission, each state
30 agency shall submit to the Department of Land Conservation and Development the following infor-
31 mation **relating to the particular region**:

32 (a) Agency rules and summaries of programs affecting land use;

33 (b) A program for coordination pursuant to [*ORS 197.040 (2)(e)*] **section 2 (6)(d) of this 2007**
34 **Act**;

35 (c) A program for coordination pursuant to ORS 197.090 (1)(b); and

36 (d) A program for cooperation with and technical assistance to local governments.

37 (4) Within 90 days of receipt, the Director of the Department of Land Conservation and Devel-
38 opment shall review the information submitted pursuant to subsection (3) of this section and shall
39 notify each agency if the director believes the rules and programs submitted are insufficient to [*as-*
40 *sure*] **ensure** compliance with goals and compatibility with city and county comprehensive plans and
41 land use regulations.

42 (5) Within 90 days of receipt of notification specified in subsection (4) of this section, the agency
43 may revise the rules or programs and resubmit them to the director.

44 (6) The director shall make findings under subsections (4) and (5) of this section as to whether
45 the rules and programs are sufficient to [*assure*] **ensure** compliance with the goals and compatibility

1 with acknowledged city and county comprehensive plans and land use regulations, and shall forward
 2 the rules and programs to the **regional** commission for its action. The **regional** commission shall
 3 either certify the rules and programs as being in compliance with the goals and compatible with the
 4 comprehensive plans and land use regulations of affected local governments or shall determine the
 5 same to be insufficient [*by December 31, 1990*].

6 (7) The department shall report to the appropriate committee of the House and the Senate and
 7 to the subcommittee of the Joint Ways and Means Committee that considers the agency budget, any
 8 agency that has failed to meet the requirements of subsection (6) of this section.

9 (8) Any agency that has failed to meet the requirements of subsection (6) of this section shall
 10 report the reasons therefor to the appropriate committee of the House and the Senate and to the
 11 subcommittee of the Joint Ways and Means Committee that considers the agency budget.

12 (9) Until state agency rules and programs are certified as being in compliance with the goals
 13 and compatible with applicable city and county comprehensive plans and land use regulations, the
 14 agency shall make findings when adopting or amending its rules and programs as to the applicability
 15 and application of the goals or acknowledged comprehensive plans, as appropriate.

16 (10) [*The*] **A regional** commission shall adopt rules establishing procedures to [*assure*] **ensure**
 17 that state agency permits affecting land use are issued in compliance with the goals and compatible
 18 with acknowledged comprehensive plans and land use regulations, as required by subsection (1) of
 19 this section. The rules shall prescribe the circumstances in which state agencies may rely upon a
 20 determination of compliance or compatibility made by the affected city or county. The rules shall
 21 allow a state agency to rely upon a determination of compliance by a city or county without an
 22 acknowledged comprehensive plan and land use regulations only if the city or county determination
 23 is supported by written findings demonstrating compliance with the goals.

24 (11) A state agency required to have a land use coordination program shall participate in a local
 25 government land use hearing, except a hearing under ORS 197.610 to 197.625, only in a manner that
 26 is consistent with the coordination program, unless the agency:

27 (a) Is exempt from coordination program requirements; or

28 (b) Participated in the local government's periodic review pursuant to ORS 197.633 and raised
 29 the issue that is the basis for participation in the land use hearing.

30 (12) In carrying out programs affecting land use, a state agency is not compatible with an ac-
 31 knowledged comprehensive plan if it takes or approves an action that is not allowed under the plan.
 32 However, a state agency may apply statutes and rules which the agency is required by law to apply
 33 in order to deny, condition or further restrict an action of the state agency or of any applicant be-
 34 fore the state agency provided it applies those statutes and rules to the uses planned for in the ac-
 35 knowledged comprehensive plan.

36 (13) This section does not apply to rules, programs, decisions, determinations or activities car-
 37 ried out under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

38 **SECTION 17.** ORS 197.225 is amended to read:

39 197.225. (1) The Department of Land Conservation and Development shall prepare and the Land
 40 Conservation and Development Commission shall adopt goals and guidelines.

41 (2) [*for use by*] **The department shall ensure that** state agencies, local governments and spe-
 42 cial districts [*in preparing, adopting, amending and implementing existing and future*] **prepare, adopt,**
 43 **amend and implement** comprehensive plans and land use regulations in a manner that com-
 44 plies with the goals.

45 **SECTION 18.** ORS 197.251 is amended to read:

1 197.251. (1) Upon the request of a local government, the [*Land Conservation and Development*]
 2 **regional commission for the region** shall by order grant, deny or continue acknowledgment of
 3 compliance of comprehensive plan and land use regulations with the goals. A **regional** commission
 4 order granting, denying or continuing acknowledgment shall be entered within 90 days of the date
 5 of the request by the local government unless the **regional** commission finds that due to extenuating
 6 circumstances a period of time greater than 90 days is required.

7 (2) In accordance with rules of the **regional commission for the region**, the Director of the
 8 Department of Land Conservation and Development shall prepare a report for the **regional** com-
 9 mission stating whether the comprehensive plan and land use regulations for which acknowledgment
 10 is sought are in compliance with the goals. The rules of [*the*] a **regional** commission shall:

11 (a) Provide a reasonable opportunity for persons to prepare and to submit to the director written
 12 comments and objections to the acknowledgment request; and

13 (b) Authorize the director to investigate and in the report to resolve issues raised in the com-
 14 ments and objections or by the director's own review of the comprehensive plan and land use reg-
 15 ulations.

16 (3) Upon completion of the report and before the **regional** commission meeting at which the di-
 17 rector's report is to be considered, the director shall afford the local government and persons who
 18 submitted written comments or objections a reasonable opportunity to file written exceptions to the
 19 report.

20 (4) [*The*] A **regional** commission's review of the acknowledgment request shall be confined to
 21 the record of proceedings before the local government, any comments, objections and exceptions
 22 filed under subsections (2) and (3) of this section and the report of the director. Upon its consider-
 23 ation of an acknowledgment request, the **regional** commission may entertain oral argument from the
 24 director and from persons who filed written comments, objections or exceptions. However, [*the*] a
 25 **regional** commission shall not allow additional evidence or testimony that could have been pre-
 26 sented to the local government or to the director but was not.

27 (5) A **regional** commission order granting, denying or continuing acknowledgment shall include
 28 a clear statement of findings which sets forth the basis for the approval, denial or continuance of
 29 acknowledgment. The findings shall:

30 (a) Identify the goals applicable to the comprehensive plan and land use regulations; and

31 (b) Include a clear statement of findings in support of the determinations of compliance and
 32 noncompliance.

33 (6) A **regional** commission order granting acknowledgment shall be limited to an identifiable
 34 geographic area described in the order if:

35 (a) Only the identified geographic area is the subject of the acknowledgment request; or

36 (b) Specific geographic areas do not comply with the applicable goals, and the goal requirements
 37 are not technical or minor in nature.

38 (7) [*The*] A **regional** commission may issue a limited acknowledgment order when a previously
 39 issued acknowledgment order is reversed or remanded by the Court of Appeals or the Oregon Su-
 40 preme Court. Such a limited acknowledgment order may deny or continue acknowledgment of that
 41 part of the comprehensive plan or land use regulations that the court found not in compliance or
 42 not consistent with the goals and grant acknowledgment of all other parts of the comprehensive plan
 43 and land use regulations.

44 (8) A limited acknowledgment order shall be considered an acknowledgment for all purposes and
 45 shall be a final order for purposes of judicial review with respect to the acknowledged geographic

1 area. A limited order may be adopted in conjunction with a continuance or denial order.

2 (9) The director shall notify the Real Estate Agency, the local government and all persons who
 3 filed comments or objections with the director of any grant, denial or continuance of acknowledg-
 4 ment.

5 (10) [The] **A regional** commission may grant a planning extension, which shall be a grant of
 6 additional time for a local government to comply with the goals in accordance with a compliance
 7 schedule. A compliance schedule shall be a listing of the tasks which the local government must
 8 complete in order to bring its comprehensive plan, land use regulations, land use decisions and
 9 limited land use decisions into initial compliance with the goals, including a generalized time
 10 schedule showing when the tasks are estimated to be completed and when a comprehensive plan or
 11 land use regulations which comply with the goals are estimated to be adopted. In developing a
 12 compliance schedule, the **regional** commission shall consider the population, geographic area, re-
 13 sources and capabilities of the city or county.

14 (11) As used in this section:

15 (a) "Continuance" means a **regional** commission order that:

16 (A) Certifies that all or part of a comprehensive plan, land use regulations or both a compre-
 17 hensive plan and land use regulations do not comply with one or more goals;

18 (B) Specifies amendments or other action that must be completed within a specified time period
 19 for acknowledgment to occur; and

20 (C) Is a final order for purposes of judicial review of the comprehensive plan, land use regu-
 21 lations or both the comprehensive plan and land use regulations as to the parts found consistent or
 22 in compliance with the goals.

23 (b) "Denial" means a **regional** commission order that:

24 (A) Certifies that a comprehensive plan, land use regulations or both a comprehensive plan and
 25 land use regulations do not comply with one or more goals;

26 (B) Specifies amendments or other action that must be completed for acknowledgment to occur;
 27 and

28 (C) Is used when the amendments or other changes required in the comprehensive plan, land use
 29 regulations or both the comprehensive plan and land use regulations affect many goals and are
 30 likely to take a substantial period of time to complete.

31 **SECTION 19.** ORS 197.253 is amended to read:

32 197.253. Notwithstanding the provisions of ORS 197.251 (2)(a), a person may not submit written
 33 comments and objections to the acknowledgment request of any city or county that submits its plan
 34 or regulations to the [*Land Conservation and Development Commission*] **regional commission for**
 35 **the region** for acknowledgment [*for the first time after August 9, 1983,*] unless the person partic-
 36 ipated either orally or in writing in the local government proceedings leading to the adoption of the
 37 plan and regulations.

38 **SECTION 20.** ORS 197.254 is amended to read:

39 197.254. (1) A state agency shall be barred after the date set [*for submission of programs by the*
 40 *Land Conservation and Development commission*] **by a regional commission for submission of**
 41 **programs** as provided in ORS 197.180 (3), from contesting a request for acknowledgment submitted
 42 by a local government under ORS 197.251 or from filing an appeal under ORS 197.620 (1) or (2), if
 43 the **regional** commission finds that:

44 (a) The state agency has not complied with ORS 197.180; or

45 (b) The state agency has not coordinated its plans, programs or rules affecting land use with the

1 comprehensive plan or land use regulations of the city or county pursuant to a coordination program
2 approved by the **regional** commission under ORS 197.180.

3 (2) A state agency shall be barred from seeking a **regional** commission order under ORS 197.644
4 requiring amendment of a local government comprehensive plan or land use regulation in order to
5 comply with the agency's plan or program unless the agency has first requested the amendment from
6 the local government and has had its request denied.

7 (3) A special district shall be barred from contesting a request for initial compliance acknowl-
8 edgment submitted by a local government under ORS 197.251 or from filing an appeal under ORS
9 197.620 (1) or (2), if the county or Metropolitan Service District assigned coordinative functions
10 under ORS 195.025 (1) finds that:

11 (a) The special district has not entered into a cooperative agreement under ORS 195.020; or

12 (b) The special district has not coordinated its plans, programs or regulations affecting land use
13 with the comprehensive plan or land use regulations of the local government pursuant to its coop-
14 erative agreement made under ORS 195.020.

15 (4) A special district shall be barred from seeking a **regional** commission order under ORS
16 197.644 requiring amendment of a local government comprehensive plan or land use regulation in
17 order to comply with the special district's plan or program unless the special district has first re-
18 quested the amendment from the local government and has had its request denied.

19 **SECTION 21.** ORS 197.265 is amended to read:

20 197.265. (1) As used in this section, "action" includes but is not limited to a proceeding under
21 ORS 197.830 to 197.845.

22 (2) If any action is brought against a local government challenging any comprehensive plan, land
23 use regulation or other action of the local government which was adopted or taken for the primary
24 purpose of complying with the goals approved under ORS 197.240 and which does in fact comply
25 with the goals, then the **Department of Land Conservation and Development** [*Commission*] shall pay
26 reasonable attorney fees and court costs incurred by [*such*] **the** local government in the action or
27 suit including any appeal, to the extent funds have been specifically appropriated to the [*commission*
28 *therefor*] **department for that purpose**.

29 **SECTION 22.** ORS 197.274 is amended to read:

30 197.274. (1) The Metro regional framework plan, its separate components and amendments to the
31 regional framework plan or to its separate components are subject to review:

32 (a) For compliance with land use planning statutes, statewide land use planning goals and ad-
33 ministrative rules corresponding to the statutes and goals, in the same manner as a comprehensive
34 plan for purposes of:

35 (A) Acknowledgment of compliance with the goals under ORS 197.251; and

36 (B) Post-acknowledgment procedures under ORS 197.610 to 197.650; and

37 (b) As a land use decision under ORS 197.805 to 197.855 and 197.860.

38 (2) With the prior consent of the [*Land Conservation and Development Commission*] **regional**
39 **commission for the region**, Metro may submit to the Department of Land Conservation and De-
40 velopment an amendment to the Metro regional framework plan or to a component of the regional
41 framework plan in the manner provided for periodic review under ORS 197.628 to 197.650, if the
42 amendment implements a program to meet the requirements of a land use planning statute, a state-
43 wide land use planning goal or an administrative rule corresponding to a statute or goal.

44 **SECTION 23.** ORS 197.277 is amended to read:

45 197.277. (1) The goals and rules established in ORS chapters 195, 196 and 197 do not apply to

1 programs, rules, procedures, decisions, determinations or activities carried out under the Oregon
2 Forest Practices Act administered under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

3 (2) No goal or rule shall be adopted, construed or administered in a manner to require or allow
4 local governments to take any action prohibited by ORS 527.722.

5 (3) The Land Conservation and Development Commission shall amend goals and rules **and the**
6 **regional commission for a region shall adopt rules** as necessary to implement ORS 197.180,
7 197.277, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620, 527.630,
8 527.660, 527.670, 527.683 to 527.687, 527.715, 527.990 and 527.992.

9 **SECTION 24.** ORS 197.283 is amended to read:

10 197.283. (1) The [*Land Conservation and Development Commission*] **regional commission for a**
11 **region** shall take actions it considers necessary to [*assure*] **ensure** that city and county compre-
12 hensive plans and land use regulations and state agency coordination programs **within the region**
13 are consistent with the goal set forth in ORS 468B.155.

14 (2) [*The*] **A regional** commission shall direct the Department of Land Conservation and Devel-
15 opment to take actions the department considers appropriate to [*assure*] **ensure** that any informa-
16 tion contained in a city or county comprehensive plan that pertains to the ground water resource
17 of Oregon shall be forwarded to the centralized repository established under ORS 468B.167.

18 **SECTION 25.** ORS 197.296 is amended to read:

19 197.296. (1)(a) The provisions of this section apply to metropolitan service district regional
20 framework plans and local government comprehensive plans for lands within the urban growth
21 boundary of a city that is located outside of a metropolitan service district and has a population of
22 25,000 or more.

23 (b) The [*Land Conservation and Development Commission*] **regional commission for the region**
24 may establish a set of factors under which additional cities are subject to the provisions of this
25 section. In establishing the set of factors required under this paragraph, the **regional** commission
26 shall consider the size of the city, the rate of population growth of the city or the proximity of the
27 city to another city with a population of 25,000 or more or to a metropolitan service district.

28 (2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of
29 the comprehensive plan or regional plan that concerns the urban growth boundary and requires the
30 application of a statewide planning goal relating to buildable lands for residential use, a local gov-
31 ernment shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable
32 lands within the urban growth boundary established pursuant to statewide planning goals to ac-
33 commodate estimated housing needs for 20 years. The 20-year period shall commence on the date
34 initially scheduled for completion of the periodic or legislative review.

35 (3) In performing the duties under subsection (2) of this section, a local government shall:

36 (a) Inventory the supply of buildable lands within the urban growth boundary and determine the
37 housing capacity of the buildable lands; and

38 (b) Conduct an analysis of housing need by type and density range, in accordance with ORS
39 197.303 and statewide planning goals and rules relating to housing, to determine the number of units
40 and amount of land needed for each needed housing type for the next 20 years.

41 (4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable
42 lands" includes:

43 (A) Vacant lands planned or zoned for residential use;

44 (B) Partially vacant lands planned or zoned for residential use;

45 (C) Lands that may be used for a mix of residential and employment uses under the existing

1 planning or zoning; and

2 (D) Lands that may be used for residential infill or redevelopment.

3 (b) For the purpose of the inventory and determination of housing capacity described in sub-
4 section (3)(a) of this section, the local government must demonstrate consideration of:

5 (A) The extent that residential development is prohibited or restricted by local regulation and
6 ordinance, state law and rule or federal statute and regulation;

7 (B) A written long term contract or easement for radio, telecommunications or electrical facili-
8 ties, if the written contract or easement is provided to the local government; and

9 (C) The presence of a single family dwelling or other structure on a lot or parcel.

10 (c) Except for land that may be used for residential infill or redevelopment, a local government
11 shall create a map or document that may be used to verify and identify specific lots or parcels that
12 have been determined to be buildable lands.

13 (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of
14 housing capacity and need pursuant to subsection (3) of this section must be based on data relating
15 to land within the urban growth boundary that has been collected since the last periodic review or
16 five years, whichever is greater. The data shall include:

17 (A) The number, density and average mix of housing types of urban residential development that
18 have actually occurred;

19 (B) Trends in density and average mix of housing types of urban residential development;

20 (C) Demographic and population trends;

21 (D) Economic trends and cycles; and

22 (E) The number, density and average mix of housing types that have occurred on the buildable
23 lands described in subsection (4)(a) of this section.

24 (b) A local government shall make the determination described in paragraph (a) of this sub-
25 section using a shorter time period than the time period described in paragraph (a) of this subsection
26 if the local government finds that the shorter time period will provide more accurate and reliable
27 data related to housing capacity and need. The shorter time period may not be less than three years.

28 (c) A local government shall use data from a wider geographic area or use a time period for
29 economic cycles and trends longer than the time period described in paragraph (a) of this subsection
30 if the analysis of a wider geographic area or the use of a longer time period will provide more ac-
31 curate, complete and reliable data relating to trends affecting housing need than an analysis per-
32 formed pursuant to paragraph (a) of this subsection. The local government must clearly describe the
33 geographic area, time frame and source of data used in a determination performed under this para-
34 graph.

35 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than
36 the housing capacity determined pursuant to subsection (3)(a) of this section, the local government
37 shall take one or more of the following actions to accommodate the additional housing need:

38 (a) Amend its urban growth boundary to include sufficient buildable lands to accommodate
39 housing needs for the next 20 years. As part of this process, the local government shall consider the
40 effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include
41 sufficient land reasonably necessary to accommodate the siting of new public school facilities. The
42 need and inclusion of lands for new public school facilities shall be a coordinated process between
43 the affected public school districts and the local government that has the authority to approve the
44 urban growth boundary;

45 (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to in-

1 clude new measures that demonstrably increase the likelihood that residential development will oc-
 2 cur at densities sufficient to accommodate housing needs for the next 20 years without expansion
 3 of the urban growth boundary. A local government or metropolitan service district that takes this
 4 action shall monitor and record the level of development activity and development density by hous-
 5 ing type following the date of the adoption of the new measures; or

6 (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

7 (7) Using the analysis conducted under subsection (3)(b) of this section, the local government
 8 shall determine the overall average density and overall mix of housing types at which residential
 9 development of needed housing types must occur in order to meet housing needs over the next 20
 10 years. If that density is greater than the actual density of development determined under subsection
 11 (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined
 12 under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall
 13 adopt measures that demonstrably increase the likelihood that residential development will occur
 14 at the housing types and density and at the mix of housing types required to meet housing needs
 15 over the next 20 years.

16 (8)(a) A local government outside a metropolitan service district that takes any actions under
 17 subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use
 18 regulations comply with goals and rules adopted by the **Land Conservation and Development**
 19 **Commission and the rules adopted by the regional** commission and implement ORS 197.295 to
 20 197.314.

21 (b) The local government shall determine the density and mix of housing types anticipated as a
 22 result of actions taken under subsections (6) and (7) of this section and monitor and record the ac-
 23 tual density and mix of housing types achieved. The local government shall compare actual and
 24 anticipated density and mix. The local government shall submit its comparison to the **regional**
 25 commission at the next periodic review or at the next legislative review of its urban growth
 26 boundary, whichever comes first.

27 (9) In establishing that actions and measures adopted under subsections (6) or (7) of this section
 28 demonstrably increase the likelihood of higher density residential development, the local government
 29 shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the
 30 housing types identified under subsection (3) of this section and is zoned at density ranges that are
 31 likely to be achieved by the housing market using the analysis in subsection (3) of this section.
 32 Actions or measures, or both, may include but are not limited to:

33 (a) Increases in the permitted density on existing residential land;

34 (b) Financial incentives for higher density housing;

35 (c) Provisions permitting additional density beyond that generally allowed in the zoning district
 36 in exchange for amenities and features provided by the developer;

37 (d) Removal or easing of approval standards or procedures;

38 (e) Minimum density ranges;

39 (f) Redevelopment and infill strategies;

40 (g) Authorization of housing types not previously allowed by the plan or regulations;

41 (h) Adoption of an average residential density standard; and

42 (i) Rezoning or redesignation of nonresidential land.

43 **SECTION 26.** ORS 197.299 is amended to read:

44 197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the
 45 inventory, determination and analysis required under ORS 197.296 (3) not later than five years after

1 completion of the previous inventory, determination and analysis.

2 (2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296
 3 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3)
 4 within one year of completing the analysis.

5 (b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) neces-
 6 sary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two
 7 years of completing the analysis.

8 (c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year
 9 after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land
 10 within the urban growth boundary to accommodate the estimated housing needs for 20 years from
 11 the time the actions are completed. The metropolitan service district shall consider and adopt new
 12 measures that the governing body deems appropriate under ORS 197.296 (6)(b).

13 (3) The [*Land Conservation and Development Commission*] **regional commission for the region**
 14 may grant an extension to the time limits of subsection (2) of this section if the Director of the
 15 Department of Land Conservation and Development determines that the metropolitan service district
 16 has provided good cause for failing to meet the time limits.

17 (4)(a) The metropolitan service district shall establish a process to expand the urban growth
 18 boundary to accommodate a need for land for a public school that cannot reasonably be accommo-
 19 dated within the existing urban growth boundary. The metropolitan service district shall design the
 20 process to:

21 (A) Accommodate a need that must be accommodated between periodic analyses of urban growth
 22 boundary capacity required by subsection (1) of this section; and

23 (B) Provide for a final decision on a proposal to expand the urban growth boundary within four
 24 months after submission of a complete application by a high growth school district, as defined in
 25 ORS 195.110.

26 (b) At the request of a high growth school district, the metropolitan service district shall assist
 27 the high growth school district to identify school sites required by the school facility planning pro-
 28 cess described in ORS 195.110. A need for a public school is a specific type of identified land need
 29 under ORS 197.298 (3).

30 **SECTION 27.** ORS 197.319 is amended to read:

31 197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320,
 32 the person shall:

33 (a) Present the reasons, in writing, for such an order to the affected local government; and

34 (b) Request:

35 (A) Revisions to the local comprehensive plan, land use regulations, special district cooperative
 36 or urban service agreement or decision-making process which is the basis for the order; or

37 (B) That an action be taken regarding the local comprehensive plan, land use regulations, spe-
 38 cial district agreement or decision-making process that is the basis for the order.

39 (2)(a) The local government or special district shall issue a written response to the request
 40 within 60 days of the date the request is mailed to the local government or special district.

41 (b) The requestor and the local government or special district may enter into mediation to re-
 42 solve issues in the request. The Department of Land Conservation and Development shall provide
 43 mediation services when jointly requested by the local government or special district and the
 44 requestor.

45 (c) If the local government or special district does not act in a manner which the requestor

1 believes is adequate to address the issues raised in the request within the time period provided in
 2 paragraph (a) of this subsection, a petition may be presented to the [*Land Conservation and Devel-*
 3 *opment Commission*] **regional commission for the region** under ORS 197.324.

4 **SECTION 28.** ORS 197.320 is amended to read:

5 197.320. The [*Land Conservation and Development Commission*] **regional commission for the**
 6 **region** shall issue an order requiring a local government, state agency or special district to take
 7 action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or
 8 other land use decisions into compliance with the goals, acknowledged comprehensive plan pro-
 9 visions or land use regulations if the **regional** commission has good cause to believe:

10 (1) A comprehensive plan or land use regulation adopted by a local government not on a com-
 11 pliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for
 12 such compliance;

13 (2) A plan, program, rule or regulation affecting land use adopted by a state agency or special
 14 district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such
 15 compliance;

16 (3) A local government is not making satisfactory progress toward performance of its compliance
 17 schedule;

18 (4) A state agency is not making satisfactory progress in carrying out its coordination agree-
 19 ment or the requirements of ORS 197.180;

20 (5) A local government has no comprehensive plan or land use regulation and is not on a com-
 21 pliance schedule directed to developing the plan or regulation;

22 (6) A local government has engaged in a pattern or practice of decision making that violates
 23 an acknowledged comprehensive plan or land use regulation. In making its determination under this
 24 subsection, the **regional** commission shall determine whether there is evidence in the record to
 25 support the decisions made. The **regional** commission shall not judge the issue solely upon adequacy
 26 of the findings in support of the decisions;

27 (7) A local government has failed to comply with a **regional** commission order entered under
 28 ORS 197.644;

29 (8) A special district has engaged in a pattern or practice of decision-making that violates an
 30 acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

31 (9) A special district is not making satisfactory progress toward performance of its obligations
 32 under ORS chapters 195 and 197;

33 (10) A local government is applying approval standards, special conditions on approval of spe-
 34 cific development proposals or procedures for approval that do not comply with ORS 197.307 (6); or

35 (11) A local government is not making satisfactory progress toward meeting its obligations un-
 36 der ORS 195.065.

37 **SECTION 29.** ORS 197.324 is amended to read:

38 197.324. (1) On its own motion, the Land Conservation and Development Commission may **direct**
 39 **a regional commission to** initiate a proceeding to carry out the provisions of ORS 197.320. [*If the*
 40 *commission proceeds on its own motion, it*] **the regional commission** shall proceed as set forth in
 41 ORS 197.328.

42 (2)(a) After a person meets the requirements of ORS 197.319, the person may file a petition to
 43 request that the **regional commission for the region** consider the matter. Filing occurs upon mail-
 44 ing the petition to the Department of Land Conservation and Development.

45 (b) The **regional** commission shall determine if there is good cause to proceed on the petition.

1 (c) If the **regional** commission determines that there is not good cause to proceed on the peti-
2 tion, the **regional** commission shall issue a final order dismissing the petition, stating the reasons
3 therefor.

4 (d) If the **regional** commission determines that there is good cause to proceed on the petition,
5 the **regional** commission shall proceed as set forth in ORS 197.328.

6 (3) Following initiation of a proceeding under subsection (1) of this section or a determination
7 by the **regional** commission that there is good cause to proceed on a petition under subsection (2)
8 of this section, the affected local government shall include the following disclosure in any subse-
9 quent notice of a land use decision that could be affected by the enforcement order:

10 _____
11
12
13 NOTICE: THE [*OREGON LAND CONSERVATION AND DEVELOPMENT*] **REGIONAL LAND**
14 **USE PLANNING COMMISSION FOR THE REGION** HAS FOUND GOOD CAUSE FOR AN
15 ENFORCEMENT PROCEEDING AGAINST _____ (Name of local government). AN
16 ENFORCEMENT ORDER MAY BE EVENTUALLY ADOPTED THAT COULD LIMIT, PROHIBIT
17 OR REQUIRE APPLICATION OF SPECIFIED CRITERIA TO ANY ACTION AUTHORIZED BY
18 THIS DECISION BUT NOT APPLIED FOR UNTIL AFTER ADOPTION OF THE ENFORCEMENT
19 ORDER. FUTURE APPLICATIONS FOR BUILDING PERMITS OR ANY TIME EXTENSIONS MAY
20 BE AFFECTED.

21 _____
22
23 **SECTION 30.** ORS 197.328 is amended to read:

24 197.328. If a proceeding is initiated under ORS 197.324, the following procedures apply:

25 (1) The [*Land Conservation and Development*] **regional** commission **for the region** shall hold a
26 hearing to consider the petition or shall appoint a hearings officer to consider the petition under
27 the provisions of ORS chapter 183 applicable to contested cases, except as otherwise provided in this
28 section.

29 (2) The **regional** commission or hearings officer shall schedule a hearing within 45 days of re-
30 ceipt of the petition.

31 (3) If the **regional** commission appoints a hearings officer, the hearings officer shall prepare a
32 proposed order, including recommended findings and conclusions of law. The proposed order shall
33 be served on the Department of Land Conservation and Development and all parties to the hearing
34 within 30 days of the date the record closed.

35 (4) If the **regional** commission appoints a hearings officer, the **regional** commission review of
36 the proposed order shall be limited to the record of proceedings before the hearings officer. In its
37 review of a proposed order, the **regional** commission shall not receive new evidence but shall hear
38 arguments as to the proposed order and any exceptions. Any exception to the proposed order shall
39 be filed with the **regional** commission no later than 15 days following issuance of the proposed or-
40 der.

41 (5) The **regional** commission shall adopt a final order relative to a petition no later than 120
42 days from the date the petition was filed.

43 **SECTION 31.** ORS 197.335 is amended to read:

44 197.335. (1) An order issued under ORS 197.328 and the copy of the order mailed to the local
45 government, state agency or special district shall set forth:

1 (a) The nature of the noncompliance, including, but not limited to, the contents of the compre-
 2 hensive plan or land use regulation, if any, of a local government that do not comply with the goals
 3 or the contents of a plan, program or regulation affecting land use adopted by a state agency or
 4 special district that do not comply with the goals. In the case of a pattern or practice of decision-
 5 making which violates the goals, comprehensive plan or land use regulations, the order shall specify
 6 the decision-making which constitutes the pattern or practice, including specific provisions the
 7 [*Land Conservation and Development*] **regional** commission **for the region** believes are being mis-
 8 applied;

9 (b) The specific lands, if any, within a local government for which the existing plan or land use
 10 regulation, if any, does not comply with the goals; and

11 (c) The corrective action decided upon by the **regional** commission, including the specific re-
 12 quirements, with which the local government, state agency or special district must comply. In the
 13 case of a pattern or practice of decision-making that violates an acknowledged comprehensive plan
 14 or land use regulation, the **regional** commission may require revisions to the comprehensive plan,
 15 land use regulations or local procedures which the **regional** commission believes are necessary to
 16 correct the pattern or practice. Notwithstanding the provisions of this section, except as provided
 17 in subsection (3)(c) of this section, an enforcement order does not affect:

18 (A) Land use applications filed with a local government prior to the date of adoption of the
 19 enforcement order unless specifically identified by the order;

20 (B) Land use approvals issued by a local government prior to the date of adoption of the
 21 enforcement order; or

22 (C) The time limit for exercising land use approvals issued by a local government prior to the
 23 date of adoption of the enforcement order.

24 (2) Judicial review of a final order of the **regional** commission shall be governed by the pro-
 25 visions of ORS chapter 183 applicable to contested cases except as otherwise stated in this section.
 26 The **regional** commission's final order shall include a clear statement of findings which set forth the
 27 basis for the order. Where a petition to review the order has been filed in the Court of Appeals, the
 28 **regional** commission shall transmit to the court the entire administrative record of the proceeding
 29 under review. Notwithstanding ORS 183.482 (3) relating to a stay of enforcement of an agency order,
 30 an appellate court, before it may stay an order of the **regional** commission, shall give due consid-
 31 eration to the public interest in the continued enforcement of the **regional** commission's order and
 32 may consider testimony or affidavits thereon. Upon review, an appellate court may affirm, reverse,
 33 modify or remand the order. The court shall reverse, modify or remand the order only if it finds:

34 (a) The order to be unlawful in substance or procedure, but error in procedure shall not be
 35 cause for reversal, modification or remand unless the court shall find that substantial rights of any
 36 party were prejudiced thereby;

37 (b) The order to be unconstitutional;

38 (c) The order is invalid because it exceeds the statutory authority of the agency; or

39 (d) The order is not supported by substantial evidence in the whole record.

40 (3)(a) If the **regional** commission finds that in the interim period during which a local govern-
 41 ment, state agency or special district would be bringing itself into compliance with the **regional**
 42 commission's order under ORS 197.320 or subsection (2) of this section it would be contrary to the
 43 public interest in the conservation or sound development of land to allow the continuation of some
 44 or all categories of land use decisions or limited land use decisions, it shall, as part of its order,
 45 limit, prohibit or require the approval by the local government of applications for subdivisions,

1 partitions, building permits, limited land use decisions or land use decisions until the plan, land use
 2 regulation or subsequent land use decisions and limited land use decisions are brought into compli-
 3 ance. The **regional** commission may issue an order that requires review of local decisions by a
 4 hearings officer or the Department of Land Conservation and Development before the local decision
 5 becomes final.

6 (b) Any requirement under this subsection may be imposed only if the **regional** commission finds
 7 that the activity, if continued, aggravates the goal, comprehensive plan or land use regulation vio-
 8 lation and that the requirement is necessary to correct the violation.

9 (c) The limitations on enforcement orders under subsection (1)(c)(B) of this section shall not be
 10 interpreted to affect the **regional** commission’s authority to limit, prohibit or require application of
 11 specified criteria to subsequent land use decisions involving land use approvals issued by a local
 12 government prior to the date of adoption of the enforcement order.

13 (4) As part of its order under ORS 197.320 or subsection (2) of this section, the **regional** com-
 14 mission may withhold grant funds from the local government to which the order is directed. As part
 15 of an order issued under this section, the **regional** commission may notify the officer responsible for
 16 disbursing state-shared revenues to withhold that portion of state-shared revenues to which the local
 17 government is entitled under ORS 221.770, 323.455, 366.762 and 366.800 and ORS chapter 471 which
 18 represents the amount of state planning grant moneys previously provided the local government by
 19 the **Land Conservation and Development** Commission. The officer responsible for disbursing
 20 state-shared revenues shall withhold state-shared revenues as outlined in this section and shall re-
 21 lease funds to the local government or department when notified to so do by the **regional** commis-
 22 sion or its designee. The **regional** commission may retain a portion of the withheld revenues to
 23 cover costs of providing services incurred under the order, including use of a hearings officer or
 24 staff resources to monitor land use decisions and limited land use decisions or conduct hearings.
 25 The remainder of the funds withheld under this provision shall be released to the local government
 26 upon completion of requirements of the **regional** commission order.

27 (5)(a) As part of its order under this section, the **regional** commission may notify the officer
 28 responsible for disbursing funds from any grant or loan made by a state agency to withhold such
 29 funds from a special district to which the order is directed. The officer responsible for disbursing
 30 funds shall withhold funds as outlined in this section and shall release funds to the special district
 31 or department when notified to do so by the **regional** commission.

32 (b) The **regional** commission may retain a portion of the funds withheld to cover costs of pro-
 33 viding services incurred under the order, including use of a hearings officer or staff resources to
 34 monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the
 35 funds withheld under this provision shall be released to the special district upon completion of the
 36 requirements of the **regional** commission order.

37 (6) The **regional** commission may institute actions or proceedings for legal or equitable remedies
 38 in the Circuit Court for Marion County or in the circuit court for the county to which the **regional**
 39 commission’s order is directed or within which all or a portion of the applicable city is located to
 40 enforce compliance with the provisions of any order issued under this section or to restrain vio-
 41 lations thereof. Such actions or proceedings may be instituted without the necessity of prior agency
 42 notice, hearing and order on an alleged violation.

43 **SECTION 32.** ORS 197.340 is amended to read:

44 197.340. (1) The [*Land Conservation and Development Commission, the*] Department of Land
 45 Conservation and Development, other state agencies and local governments shall give the goals

1 equal weight in any matter in which the goals are required to be applied.

2 (2) The [*commission and the*] department shall consider and recognize regional diversity and
 3 differences in regional needs when making or reviewing a land use decision or otherwise applying
 4 the goals.

5 **SECTION 33.** ORS 197.350 is amended to read:

6 197.350. (1) A party appealing a land use decision or limited land use decision made by a local
 7 government to the board or **the Department of Land Conservation and Development** [*Commission*]
 8 has the burden of persuasion.

9 (2) A local government that claims an exception to a goal adopted by the **Land Conservation**
 10 **and Development Commission** has the burden of persuasion.

11 (3) There shall be no burden of proof in administrative proceedings under ORS chapters 195, 196
 12 and 197.

13 **SECTION 34.** ORS 197.352 is amended to read:

14 197.352. [*The following provisions are added to and made a part of ORS chapter 197:*]

15 (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regu-
 16 lation enacted prior to December 2, 2004, that restricts the use of private real property or **of** any
 17 interest therein and has the effect of reducing the fair market value of the property[,] or **of** any
 18 interest therein, then the owner of the property shall be paid just compensation.

19 (2) Just compensation [*shall be*] **is** equal to the reduction in the fair market value of the affected
 20 property interest resulting from enactment or enforcement of the land use regulation as of the date
 21 the owner makes **a** written demand for compensation under this section.

22 (3) Subsection (1) of this section [*shall*] **does** not apply to land use regulations:

23 [(A)] **(a)** Restricting or prohibiting activities commonly and historically recognized as public
 24 nuisances under common law. [*This subsection shall be construed narrowly in favor of a finding of*
 25 *compensation under this section*];

26 [(B)] **(b)** Restricting or prohibiting activities for the protection of public health and safety, such
 27 as fire and building codes, health and sanitation regulations, solid or hazardous waste
 28 regulations[,] and pollution control regulations;

29 [(C)] **(c)** To the extent the land use regulation is required to comply with federal law;

30 [(D)] **(d)** Restricting or prohibiting the use of a property for the purpose of selling pornography
 31 or performing nude dancing[. *Nothing in this subsection, however, is intended to affect or alter rights*
 32 *provided by the Oregon or United States Constitutions*]; or

33 [(E)] **(e)** Enacted prior to the date of acquisition of the property by the owner or a family
 34 member of the owner who owned the subject property prior to acquisition or inheritance by the
 35 owner, whichever occurred first.

36 **(4)(a) Subsection (3)(a) of this section shall be construed narrowly in favor of a finding**
 37 **of compensation under this section.**

38 **(b) Nothing in subsection (3)(d) of this section is intended to affect or alter rights pro-**
 39 **vided by the Oregon or United States Constitution.**

40 [(4)] **(5)** Just compensation under subsection (1) of this section [*shall be*] **is** due the owner of the
 41 property if the land use regulation continues to be enforced against the property 180 days after the
 42 owner of the property makes **a** written demand for compensation under this section to the public
 43 entity enacting or enforcing the land use regulation.

44 [(5)] **(6)** For claims arising from land use regulations enacted prior to December 2, 2004, **the**
 45 **owner of the property shall make a** written demand for compensation under [*subsection (4) shall*]

1 *be made*] **subsection (5) of this section** within two years of December 2, 2004, or the date the
 2 public entity applies the land use regulation as an approval [*criteria*] **criterion** to an application
 3 submitted by the owner of the property, whichever is later. For claims arising from land use regu-
 4 lations enacted after December 2, 2004, **the owner of the property shall make a** written demand
 5 for compensation under [*subsection (4) shall be made*] **subsection (5) of this section** within two
 6 years of the enactment of the land use regulation, or the date the owner of the property submits a
 7 land use application in which the land use regulation is an approval [*criteria*] **criterion**, whichever
 8 is later.

9 [(6)] (7) If a land use regulation continues to apply to the subject property more than 180 days
 10 after the present owner of the property has made written demand for compensation under this sec-
 11 tion, the present owner of the property[,] or **of any interest therein**[, *shall have*] **has** a cause of
 12 action for compensation under this section in the circuit court **for the county** in which the real
 13 property is located, and the present owner of the real property shall be entitled to reasonable at-
 14 torney fees, expenses, costs[,] and other disbursements reasonably incurred to collect the compen-
 15 sation.

16 [(7)] (8) A metropolitan service district, city, [*or*] county[,] or state agency may adopt or apply
 17 procedures for the processing of claims under this section, but in no event shall these procedures
 18 act as a prerequisite to the filing of a compensation claim under subsection [(6)] (7) of this section,
 19 nor shall the failure of an owner of property to file an application for a land use permit with the
 20 local government serve as grounds for dismissal, abatement[,] or delay of a compensation claim un-
 21 der subsection [(6)] (7) of this section.

22 [(8)] (9) Notwithstanding any other state statute or the availability of funds under subsection
 23 [(10)] (11) of this section, in lieu of payment of just compensation under this section, the governing
 24 body responsible for enacting the land use regulation may modify, remove[,] or not [*to*] apply the
 25 land use regulation or land use regulations to allow the owner to use the property for a use per-
 26 mitted at the time the owner acquired the property.

27 [(9)] (10) A decision by a governing body under this section [*shall not be considered*] **is not** a
 28 land use decision as defined in ORS 197.015 [(11)].

29 [(10)] (11) Claims made under this section [*shall*] **must** be paid from funds, if any, specifically
 30 allocated by the [*legislature*] **Legislative Assembly**, city, county[,] or metropolitan service district
 31 for payment of claims under this section. Notwithstanding the availability of funds under this sub-
 32 section, a metropolitan service district, city, county[,] or state agency [*shall have discretion to*] **may**
 33 use available funds to pay claims or [*to*] **may** modify, remove[,] or not apply a land use regulation
 34 or land use regulations pursuant to subsection [(6)] (7) of this section. If a claim has not been paid
 35 within two years from the date on which it accrues, the owner [*shall be allowed to*] **may** use the
 36 property as permitted at the time the owner acquired the property.

37 [(11)] (12) [*Definitions - for purposes of*] **As used in** this section:

38 [(A)] (a) “Family member” shall include the wife, husband, son, daughter, mother, father,
 39 brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law,
 40 aunt, uncle, niece, nephew, stepparent, stepchild, grandparent[,] or grandchild of the owner of the
 41 property, an estate of any of the foregoing family members[,] or a legal entity owned by any one or
 42 combination of these family members or the owner of the property.

43 [(B)] (b) “Land use regulation” shall include:

44 [(i)] (A) Any statute regulating the use of land or **of any interest therein**;

45 [(ii)] (B) Administrative rules and goals of the **Department of Land Conservation and Devel-**

1 opment [*Commission*];

2 [(iii)] (C) Local government comprehensive plans, zoning ordinances, land division ordinances[,] and transportation ordinances;

3 and transportation ordinances;

4 [(iv)] (D) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and

5 [(v)] (E) Statutes and administrative rules regulating farming and forest practices.

6 [(C)] (c) "Owner" is the present owner of the property[,] or of any interest therein.

7 [(D)] (d) "Public entity" shall include the state, a metropolitan service district, a city[, or] and a county.

8 [(12)] (13) The remedy created by this section is in addition to any other remedy under the Oregon or United States [*Constitutions*] **Constitution**, and is not intended to modify or replace any other remedy.

9 [(13)] (14) If any portion or portions of this section are declared invalid by a court of competent jurisdiction, the remaining portions of this section [*shall remain*] **continue** in full force and effect.

10 **SECTION 35. ORS 197.352 is added to and made a part of ORS chapter 197.**

11 **SECTION 36.** ORS 197.395 is amended to read:

12 197.395. (1) Any person or public agency desiring to initiate an activity [*which*] **that** the state may regulate or control and [*which*] **that** occurs upon federal land shall apply to the local government [*in*] **within the jurisdiction of** which the activity will take place for a permit. The application shall contain an explanation of the activity to be initiated, the plans for the activity and any other information required by the local government as prescribed by rule of the [*Land Conservation and Development*] **regional commission for the region.**

13 (2) If the local government finds after review of the application that the proposed activity complies with goals and the comprehensive plans of the local government affected by the activity, it shall approve the application and issue a permit for the activity to the person or public agency applying for the permit. If the governing body does not approve or disapprove the permit within 60 days of receipt of the application, the application shall be considered approved.

14 (3) The local government may prescribe and include in the permit any conditions or restrictions that it considers necessary to [*assure*] **ensure** that the activity complies with the goals and the comprehensive plans of the local governments affected by the activity.

15 (4) Actions pursuant to this section are subject to review under ORS 197.830 to 197.845.

16 **SECTION 37.** ORS 197.445 is amended to read:

17 197.445. A destination resort is a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. To qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, a proposed development must meet the following standards:

18 (1) The resort must be located on a site of 160 acres or more except within two miles of the ocean shoreline where the site shall be 40 acres or more.

19 (2) At least 50 percent of the site must be dedicated to permanent open space, excluding streets and parking areas.

20 (3) At least \$7 million must be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount must be spent on developed recreational facilities.

21 (4) Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100 persons and 150 separate rentable units for overnight lodging shall be provided. However, the

1 rentable overnight lodging units may be phased in as follows:

2 (a) On lands not described in paragraph (b) of this subsection:

3 (A) A total of 150 units of overnight lodging must be provided.

4 (B) At least 75 units of overnight lodging, not including any individually owned homes, lots or
5 units, must be constructed or guaranteed through surety bonding or equivalent financial assurance
6 prior to the closure of sale of individual lots or units.

7 (C) The remaining overnight lodging units must be provided as individually owned lots or units
8 subject to deed restrictions that limit their use to use as overnight lodging units. The deed re-
9 strictions may be rescinded when the resort has constructed 150 units of permanent overnight
10 lodging as required by this subsection.

11 (D) The number of units approved for residential sale may not be more than two units for each
12 unit of permanent overnight lodging provided under subparagraph (B) of this paragraph.

13 (E) The development approval must provide for the construction of other required overnight
14 lodging units within five years of the initial lot sales.

15 (b) On lands in eastern Oregon, as defined in ORS 321.805:

16 (A) A total of 150 units of overnight lodging must be provided.

17 (B) At least 50 units of overnight lodging must be constructed prior to the closure of sale of
18 individual lots or units.

19 (C) At least 50 of the remaining 100 required overnight lodging units must be constructed or
20 guaranteed through surety bonding or equivalent financial assurance within five years of the initial
21 lot sales.

22 (D) The remaining required overnight lodging units must be constructed or guaranteed through
23 surety bonding or equivalent financial assurances within 10 years of the initial lot sales.

24 (E) The number of units approved for residential sale may not be more than 2-1/2 units for each
25 unit of permanent overnight lodging provided under subparagraph (B) of this paragraph.

26 (F) If the developer of a resort guarantees the overnight lodging units required under subpara-
27 graphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance,
28 the overnight lodging units must be constructed within four years of the date of execution of the
29 surety bond or other equivalent financial assurance.

30 (5) Commercial uses allowed are limited to types and levels of use necessary to meet the needs
31 of visitors to the development. Industrial uses of any kind are not permitted.

32 (6) In lieu of the standards in subsections (1), (3) and (4) of this section, the standards set forth
33 in subsection (7) of this section apply to a destination resort:

34 (a) On land that is not defined as agricultural or forest land under any statewide planning goal;

35 (b) On land where there has been an exception to any statewide planning goal on agricultural
36 lands, forestlands, public facilities and services and urbanization; or

37 (c) On such secondary lands as the [*Land Conservation and Development*] **regional** commission
38 **for the region** deems appropriate.

39 (7) The following standards apply to the provisions of subsection (6) of this section:

40 (a) The resort must be located on a site of 20 acres or more.

41 (b) At least \$2 million must be spent on improvements for on-site developed recreational facili-
42 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and
43 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

44 (c) At least 25 units, but not more than 75 units, of overnight lodging must be provided.

45 (d) Restaurant and meeting room with at least one seat for each unit of overnight lodging must

1 be provided.

2 (e) Residential uses must be limited to those necessary for the staff and management of the re-
3 sort.

4 (f) The governing body of the county or its designee has reviewed the resort proposed under this
5 subsection and has determined that the primary purpose of the resort is to provide lodging and other
6 services oriented to a recreational resource which can only reasonably be enjoyed in a rural area.
7 Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing
8 stream.

9 (g) The resort must be constructed and located so that it is not designed to attract highway
10 traffic. Resorts may not use any manner of outdoor advertising signing except:

11 (A) Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and

12 (B) On-site identification and directional signs.

13 (8) Spending required under subsections (3) and (7) of this section is stated in 1993 dollars. The
14 spending required shall be adjusted to the year in which calculations are made in accordance with
15 the United States Consumer Price Index.

16 (9) When making a land use decision authorizing construction of a destination resort in eastern
17 Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall require
18 the resort developer to provide an annual accounting to document compliance with the overnight
19 lodging standards of this section. The annual accounting requirement commences one year after the
20 initial lot or unit sales. The annual accounting must contain:

21 (a) Documentation showing that the resort contains a minimum of 150 permanent units of over-
22 night lodging or, during the phase-in period, documentation showing the resort is not yet required
23 to have constructed 150 units of overnight lodging.

24 (b) Documentation showing that the resort meets the lodging ratio described in subsection (4)
25 of this section.

26 (c) For a resort counting individually owned units as qualified overnight lodging units, the
27 number of weeks that each overnight lodging unit is available for rental to the general public as
28 described in ORS 197.435.

29 **SECTION 38.** ORS 197.505 is amended to read:

30 197.505. As used in ORS 197.505 to 197.540:

31 (1) "Public facilities" means those public facilities for which a public facilities plan is required
32 under ORS 197.712.

33 (2) "Special district" refers to only those entities as defined in ORS 197.015 [(20)] that provide
34 services for which public facilities plans are required.

35 **SECTION 39.** ORS 197.610 is amended to read:

36 197.610. (1) A proposal to amend a local government acknowledged comprehensive plan or land
37 use regulation or to adopt a new land use regulation shall be forwarded to the Director of the De-
38 partment of Land Conservation and Development at least 45 days before the first evidentiary hear-
39 ing on adoption. The proposal forwarded shall contain the text and any supplemental information
40 that the local government believes is necessary to inform the director as to the effect of the pro-
41 posal. The notice shall include the date set for the first evidentiary hearing. The director shall notify
42 persons who have requested notice that the proposal is pending.

43 (2) When a local government determines that the goals do not apply to a particular proposed
44 amendment or new regulation, notice under subsection (1) of this section is not required. In addition,
45 a local government may submit an amendment or new regulation with less than 45 days' notice if

1 the local government determines that there are emergency circumstances requiring expedited re-
 2 view. In both cases:

3 (a) The amendment or new regulation shall be submitted after adoption as provided in ORS
 4 197.615 (1) and (2); and

5 (b) Notwithstanding the requirements of ORS 197.830 (2), the director or any other person may
 6 appeal the decision to the board under ORS 197.830 to 197.845.

7 (3) When the Department of Land Conservation and Development participates in a local gov-
 8 ernment proceeding, at least 15 days before the final hearing on the proposed amendment to the
 9 comprehensive plan or land use regulation or the new land use regulation, the department shall
 10 notify the local government of:

11 (a) Any concerns the department has concerning the proposal; and

12 (b) Advisory recommendations on actions the department considers necessary to address the
 13 concerns, including, but not limited to, suggested corrections to achieve compliance with the goals.

14 (4) The director shall report to the [*Land Conservation and Development*] **regional** commission
 15 **for the region** on whether the director:

16 (a) Believes the local government's proposal violates the goals; and

17 (b) Is participating in the local government proceeding.

18 **SECTION 40.** ORS 197.625 is amended to read:

19 197.625. (1) If a notice of intent to appeal is not filed within the 21-day period set out in ORS
 20 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the
 21 new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.
 22 An amendment to an acknowledged comprehensive plan or land use regulation is not considered
 23 acknowledged unless the notices required under ORS 197.610 and 197.615 have been submitted to the
 24 Director of the Department of Land Conservation and Development and:

25 (a) The 21-day appeal period has expired; or

26 (b) If an appeal is timely filed, the board affirms the decision or the appellate courts affirm the
 27 decision.

28 (2) If the decision adopting an amendment to an acknowledged comprehensive plan or land use
 29 regulation or a new land use regulation is affirmed on appeal under ORS 197.830 to 197.855, the
 30 amendment or new regulation shall be considered acknowledged upon the date the appellate decision
 31 becomes final.

32 (3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land
 33 use regulation or an amendment to a comprehensive plan or land use regulation is effective at the
 34 time specified by local government charter or ordinance and is applicable to land use decisions,
 35 expedited land divisions and limited land use decisions if the amendment was adopted in substantial
 36 compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

37 (b) Any approval of a land use decision, expedited land division or limited land use decision
 38 subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall in-
 39 clude findings of compliance with those land use goals applicable to the amendment.

40 (c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land
 41 use regulation shall not be relied upon to justify retention of improvements so permitted if the
 42 comprehensive plan provision or land use regulation does not gain acknowledgment.

43 (d) The provisions of this subsection apply to applications for land use decisions, expedited land
 44 divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive
 45 plan and land use regulation amendments adopted:

1 (A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628, 197.633 and
2 197.636;

3 (B) After June 1, 1991, to meet the requirements of ORS 197.646; and

4 (C) After November 4, 1993.

5 (4) The director shall issue certification of the acknowledgment upon receipt of an affidavit from
6 the board stating either:

7 (a) That no appeal was filed within the 21 days allowed under ORS 197.830 (9); or

8 (b) The date the appellate decision affirming the adoption of the amendment or new regulation
9 became final.

10 (5) The board shall issue an affidavit for the purposes of subsection (4) of this section within five
11 days of receiving a valid request from the local government.

12 (6) After issuance of the notice provided in ORS 197.633, nothing in this section shall prevent
13 the [*Land Conservation and Development*] **regional** commission **for the region** from entering an or-
14 der pursuant to ORS 197.633, 197.636 or 197.644 to require a local government to respond to the
15 standards of ORS 197.628.

16 **SECTION 41.** ORS 197.626 is amended to read:

17 197.626. A metropolitan service district that amends its urban growth boundary to include more
18 than 100 acres, or a city with a population of 2,500 or more within its urban growth boundary that
19 amends the urban growth boundary to include more than 50 acres or that designates urban reserve
20 areas under ORS 195.145, shall submit the amendment or designation to the [*Land Conservation and*
21 *Development*] **regional** commission **for the region** in the manner provided for periodic review under
22 ORS 197.628 to 197.650.

23 **SECTION 42.** ORS 197.628 is amended to read:

24 197.628. (1) It is the policy of the State of Oregon to require the periodic review of compre-
25 hensive plans and land use regulations in order to respond to changes in local, regional and state con-
26 ditions to ensure that the plans and regulations remain in compliance with the statewide planning
27 goals adopted pursuant to ORS 197.230[,] and to ensure that the plans and regulations make ade-
28 quate provision for economic development, needed housing, transportation, public facilities and ser-
29 vices and urbanization.

30 (2) [*The Land Conservation and Development*] **A regional** commission shall concentrate periodic
31 review assistance to local governments on achieving compliance with those statewide land use
32 planning laws and goals that address economic development, needed housing, transportation, public
33 facilities and services and urbanization.

34 (3) The following conditions indicate the need for periodic review of comprehensive plans and
35 land use regulations:

36 (a) There has been a substantial change in circumstances including but not limited to the con-
37 ditions, findings or assumptions upon which the comprehensive plan or land use regulations were
38 based, so that the comprehensive plan or land use regulations do not comply with the statewide
39 planning goals relating to economic development, needed housing, transportation, public facilities
40 and services and urbanization;

41 (b) Decisions implementing acknowledged comprehensive plan and land use regulations are in-
42 consistent with the goals relating to economic development, needed housing, transportation, public
43 facilities and services and urbanization;

44 (c) There are issues of regional or statewide significance, intergovernmental coordination or
45 state agency plans or programs affecting land use which must be addressed in order to bring com-

1 comprehensive plans and land use regulations into compliance with the goals relating to economic de-
2 velopment, needed housing, transportation, public facilities and services and urbanization; or

3 (d) The local government[, *commission*] or **the** Department of Land Conservation and Develop-
4 ment determines that the existing comprehensive plan and land use regulations are not achieving
5 the statewide planning goals relating to economic development, needed housing, transportation,
6 public facilities and services and urbanization.

7 **SECTION 43.** ORS 197.629 is amended to read:

8 197.629. (1) The Land Conservation and Development Commission shall establish and maintain
9 **by rule** a schedule for periodic review of comprehensive plans and land use regulations **by regional**
10 **commissions**. Except as necessary to coordinate approved periodic review work programs and to
11 account for special circumstances that from time to time arise, the schedule shall reflect the fol-
12 lowing timelines:

13 (a) A city with a population of less than 2,500 within its urban growth boundary shall not be
14 required to conduct periodic review unless the city lies close enough to another city that has a
15 population of 25,000 or more within its urban growth boundary that the smaller city is significantly
16 affected by needed housing, employment, transportation or public facility and services decisions
17 made by the larger city;

18 (b) Except as provided in subsection (2) of this section, a county with a population of less than
19 15,000 shall not be required to conduct periodic review;

20 (c) A county with a population of 15,000 or more but less than 50,000, or a city with a population
21 of 2,500 or more but less than 25,000 inside its urban growth boundary, shall conduct periodic review
22 every 5 to 15 years after completion of the previous periodic review; and

23 (d) A county with a population of 50,000 or more, or a metropolitan service district or a city
24 with a population of 25,000 or more inside its urban growth boundary, shall conduct periodic review
25 every 5 to 10 years after completion of the previous periodic review.

26 (2) A county with a portion of its population within the urban growth boundary of a city subject
27 to periodic review under this section shall conduct periodic review for that portion of the county
28 according to the schedule and work program set for the city.

29 (3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific
30 as to that portion of the county within the urban growth boundary of a city subject to periodic re-
31 view under this section, the county shall conduct periodic review for that portion of the county
32 according to the schedule and work program set for the county.

33 (4) [*The Land Conservation and Development*] **A regional** commission may schedule periodic re-
34 view for a local government earlier than provided in subsection (1) of this section if necessary to
35 ensure that all local governments in a region whose land use decisions would significantly affect
36 other local governments in the region are conducting periodic review concurrently.

37 (5) A city or county that is exempt from periodic review under subsection (1)(a) or (b) of this
38 section may request periodic review by the **regional** commission **for the region**.

39 **SECTION 44.** ORS 197.629, as amended by section 2, chapter 829, Oregon Laws 2005, is
40 amended to read:

41 197.629. (1) The Land Conservation and Development Commission shall establish and maintain
42 **by rule** a schedule for periodic review of comprehensive plans and land use regulations **by regional**
43 **commissions**. Except as necessary to coordinate approved periodic review work programs and to
44 account for special circumstances that from time to time arise, the schedule shall reflect the fol-
45 lowing timelines:

1 (a) A city with a population of more than 2,500 within a metropolitan planning organization or
 2 a metropolitan service district shall conduct periodic review every seven years after completion of
 3 the previous periodic review; and

4 (b) A city with a population of 10,000 or more inside its urban growth boundary that is not
 5 within a metropolitan planning organization shall conduct periodic review every 10 years after
 6 completion of the previous periodic review.

7 (2) A county with a portion of its population within the urban growth boundary of a city subject
 8 to periodic review under this section shall conduct periodic review for that portion of the county
 9 according to the schedule and work program set for the city.

10 (3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific
 11 as to that portion of the county within the urban growth boundary of a city subject to periodic re-
 12 view under this section, the county shall conduct periodic review for that portion of the county
 13 according to the schedule and work program set for the county.

14 (4) If the **Department of** Land Conservation and Development [*Commission*] pays the costs of
 15 a local government that is not subject to subsection (1) of this section to perform new work pro-
 16 grams and work tasks, the **regional commission for the region** may require the local government
 17 to complete periodic review when the local government has not completed periodic review within
 18 the previous five years if:

19 (a) A city has been growing faster than the annual population growth rate of the state for five
 20 consecutive years;

21 (b) A major transportation project on the Statewide Transportation Improvement Program that
 22 is approved for funding by the Oregon Transportation Commission is likely to:

23 (A) Have a significant impact on a city or an urban unincorporated community; or

24 (B) Be significantly affected by growth and development in a city or an urban unincorporated
 25 community;

26 (c) A major facility, including a prison, is sited or funded by a state agency; or

27 (d) Approval by the city or county of a facility for a major employer will increase employment
 28 opportunities and significantly affect the capacity of housing and public facilities in the city or ur-
 29 ban unincorporated community.

30 (5) The [*Land Conservation and Development*] **regional commission for the region** may schedule
 31 periodic review for a local government earlier than provided in subsection (1) of this section if
 32 necessary to ensure that all local governments in a region whose land use decisions would signif-
 33 icantly affect other local governments in the region are conducting periodic review concurrently,
 34 but not sooner than five years after completion of the previous periodic review.

35 (6) A city or county that is not required to complete periodic review under subsection (1) of this
 36 section may request periodic review by the **regional commission for the region**.

37 (7) As used in this section, “metropolitan planning organization” means an organization located
 38 wholly within the State of Oregon and designated by the Governor to coordinate transportation
 39 planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c).

40 **SECTION 45.** ORS 197.633 is amended to read:

41 197.633. (1) The periodic review process is divided into two phases. Phase one is the evaluation
 42 of the existing comprehensive plan, land use regulations and citizen involvement program and, if
 43 necessary, the development of a work program to make needed changes to the comprehensive plan
 44 or land use regulations. Phase two is the completion of work tasks outlined in the work program.

45 (2) The Land Conservation and Development Commission shall adopt rules for conducting peri-

1 odic review. The rules shall provide a process for:

2 (a) Initiating periodic review;

3 (b) Citizen participation;

4 (c) The participation of state agencies;

5 (d) The preparation, review and approval of an evaluation of a comprehensive plan and land use
6 regulations;

7 (e) Review of a work program; and

8 (f) Review of completed work tasks.

9 (3) A decision by the Director of the Department of Land Conservation and Development to
10 approve a work program, that no work program is necessary or that no further work is necessary
11 is final and not subject to appeal.

12 (4) The director:

13 (a) Shall take action on a work task not later than 120 days after the local government submits
14 the work task for review unless the local government waives the 120-day deadline or the **regional**
15 **commission for the region** grants the director an extension. If the director does not take action
16 within the time period required by this subsection, the work task is deemed approved. The depart-
17 ment shall provide a letter to the local government certifying that the work task is approved unless
18 an interested party has filed a timely objection to the work task consistent with administrative rules
19 for conducting periodic review. If a timely objection is filed, the director shall refer the work task
20 to the **regional commission for the region**.

21 (b) May approve or remand a work task or refer the work task to the **regional commission for**
22 **the region** for a decision. A decision by the director to approve or remand a work task may be
23 appealed to the **regional commission**.

24 (5) Except as provided in this subsection, the **regional commission** shall take action on the ap-
25 peal or referral within 90 days of the appeal or referral. Action by the **regional commission** in re-
26 sponse to an appeal from a decision of the director is a final order subject to judicial review in the
27 manner provided in ORS 197.650. [*The*] **A regional commission** may extend the time for taking
28 action on the appeal or referral if the **regional commission** finds that:

29 (a) The appeal or referral is appropriate for mediation;

30 (b) The appeal or referral raises new or complex issues of fact or law that make it unreasonable
31 for the **regional commission** to give adequate consideration to the issues within the 90-day limit; or

32 (c) The parties to the appeal and the **regional commission** agree to an extension, not to exceed
33 an additional 90 days.

34 (6) The **regional commission** and a local government shall attempt to complete periodic review
35 within three years after approval of a work program. In order to promote the timely completion of
36 periodic review, the **regional commission** shall establish a system of incentives to encourage local
37 government compliance with timelines in periodic review work programs.

38 **SECTION 46.** ORS 197.636 is amended to read:

39 197.636. (1) Upon good cause shown by a local government, the Director of the Department of
40 Land Conservation and Development may allow the local government an extension of time for sub-
41 mitting a work program or completing a work task. A decision by the director to grant or deny an
42 extension may be referred to the [*Land Conservation and Development*] **regional commission for the**
43 **region** by the director. The Department of Land Conservation and Development or the **regional**
44 **commission** shall not extend the deadline for submitting a work program more than once nor for
45 more than 90 days, and shall not extend the deadline for a work task more than once nor for more

1 than one year.

2 (2) If a local government fails to submit a work program or to complete a work task by the
3 deadline set by the director or the **regional** commission, including any extension that has been
4 granted, the director shall schedule a hearing before the **regional** commission. The **regional** com-
5 mission shall issue an order imposing one or more of the following sanctions until the work program
6 or the work task receives final approval by the director or the **regional** commission:

7 (a) Require the local government to apply those portions of the goals and rules to land use de-
8 cisions as specified in the order. Sanctions may be imposed under this paragraph only when neces-
9 sary to resolve a specific deficiency identified in the order.

10 (b) Forfeiture of all or a portion of the grant money received to conduct the review, develop the
11 work program or complete the work task.

12 (c) Completion of the work program or work task by the department. The **regional** commission
13 may require the local government to pay the cost for completion of work performed by the depart-
14 ment, following the withholding process set forth in ORS 197.335 (4).

15 (d) Application of such interim measures as the **regional** commission deems necessary to ensure
16 compliance with the statewide planning goals.

17 (3) If the department receives a work program or work task completed in response to a **regional**
18 commission order issued under subsection (2) of this section, the director shall evaluate and issue
19 a decision on the work program or work task within 90 days.

20 (4) **Regional** commission action pursuant to subsection (1) or (2) of this section is a final order
21 subject to judicial review in the manner provided in ORS 197.650.

22 **SECTION 47.** ORS 197.637 is amended to read:

23 197.637. (1) Upon request of the Department of Land Conservation and Development, the Hous-
24 ing and Community Services Department shall review the inventory and analysis of housing, and
25 measures taken to address the housing need, required of certain local governments under ORS
26 197.296. The review shall address the likely effect of measures developed by a local government
27 under ORS 197.296 (6) or (7) on the adequacy of the supply of buildable land and opportunities to
28 satisfy needs identified under ORS 197.296 (3).

29 (2) The [*Land Conservation and Development Commission and the Director of the*] Department of
30 Land Conservation and Development shall consider the review and any recommendations of the
31 Housing and Community Services Department when determining whether a local government has
32 complied with the statewide land use planning goals and the requirements of ORS 197.296.

33 **SECTION 48.** ORS 197.638 is amended to read:

34 197.638. (1) Upon request of the Department of Land Conservation and Development, the Eco-
35 nomic and Community Development Department shall review the inventory and analysis of industrial
36 and commercial land, and measures taken to address the land needs, required of certain local gov-
37 ernments under ORS 197.712. The review shall address the likely effect of measures developed by a
38 local government on the adequacy of the supply of sites and opportunities to satisfy needs identified
39 under ORS 197.712.

40 (2) The [*Land Conservation and Development Commission and the Director of the*] Department of
41 Land Conservation and Development shall consider the review and any recommendations of the
42 Economic and Community Development Department when determining whether a local government
43 has complied with the statewide land use planning goals and the requirements of ORS 197.712.

44 **SECTION 49.** ORS 197.644 is amended to read:

45 197.644. (1) The [*Land Conservation and Development*] **regional** commission **for the region** may

1 direct or, upon request of the local government, the Director of the Department of Land Conserva-
 2 tion and Development may authorize a local government to modify an approved work program when:

3 (a) Issues of regional or statewide significance arising out of another local government's periodic
 4 review require an enhanced level of coordination;

5 (b) Issues of goal compliance are raised as a result of completion of a work program task re-
 6 sulting in a need to undertake further review or revisions;

7 (c) Issues relating to the organization of the work program, coordination with affected agencies
 8 or persons, or orderly implementation of work tasks result in a need for further review or revision;
 9 or

10 (d) Issues relating to needed housing, employment, transportation or public facilities and ser-
 11 vices were omitted from the work program but must be addressed in order to ensure compliance
 12 with the statewide planning goals.

13 (2) The **regional** commission shall have exclusive jurisdiction for review of the evaluation, work
 14 program and completed work program tasks as set forth in ORS 197.628 to 197.650. The
 15 [*commission*] **Land Conservation and Development Commission** shall adopt rules governing
 16 standing, the provision of notice, conduct of hearings, adoption of stays, extension of time periods
 17 and other matters related to the administration of ORS 197.180, 197.245, 197.254, 197.295, 197.320,
 18 197.620, 197.625, 197.628 to 197.650, 197.712, 197.747, 197.840, 215.416, 227.175 and 466.385.

19 (3)(a) **Regional** commission action pursuant to subsection (1) or (2) of this section is a final order
 20 subject to judicial review in the manner provided in ORS 197.650.

21 (b) Action by the director pursuant to subsection (1) of this section may be appealed to the **re-**
 22 **gional commission for the region** pursuant to rules adopted by the **Land Conservation and De-**
 23 **velopment Commission**. **Regional** commission action under this paragraph is a final order subject
 24 to judicial review in the manner provided in ORS 197.650.

25 **SECTION 50.** ORS 197.646 is amended to read:

26 197.646. (1) A local government shall amend its acknowledged comprehensive plan, regional
 27 framework plan and land use regulations implementing either plan by a self-initiated post-
 28 acknowledgment process under ORS 197.610 to 197.625 to comply with:

29 (a) A new statutory requirement; or

30 (b) A new land use planning goal or rule requirement adopted by the **Department of Land**
 31 **Conservation and Development** [*Commission*].

32 (2) Periodic review is not the implementation process for new statutory, land use planning goal
 33 or rule requirements.

34 (3)(a) The department [*of Land Conservation and Development*] shall notify local governments
 35 when a new statutory requirement or a new land use planning goal or rule requirement adopted by
 36 the **Land Conservation and Development Commission or the regional commission for the re-**
 37 **gion** requires changes to an acknowledged comprehensive plan, regional framework plan and land
 38 use regulations implementing either plan.

39 (b) The **Land Conservation and Development Commission** shall establish, by rule, the time
 40 period within which an acknowledged comprehensive plan, regional framework plan and land use
 41 regulations implementing either plan must be in compliance with:

42 (A) A new statutory requirement, if the legislation does not specify a time period for compliance;
 43 and

44 (B) A new land use planning goal or rule requirement adopted by the **Land Conservation and**
 45 **Development Commission or the regional commission for the region.**

1 (4) When a local government does not adopt amendments to a comprehensive plan, regional
 2 framework plan and land use regulations implementing either plan as required by subsection (1) of
 3 this section, the new statutory, land use planning goal or rule requirements apply directly to the
 4 local government's land use decisions. The failure to adopt amendments to a comprehensive plan,
 5 regional framework plan and land use regulations implementing either plan required by subsection
 6 (1) of this section is a basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335.

7 **SECTION 51.** ORS 197.650 is amended to read:

8 197.650. (1) A [*Land Conservation and Development*] **regional** commission order may be appealed
 9 to the Court of Appeals in the manner provided in ORS 183.482 by the following persons:

10 (a) Persons who submitted comments or objections pursuant to ORS 197.251 (2) or proceedings
 11 under ORS 197.633, 197.636 or 197.644 and are appealing a **regional** commission order issued under
 12 ORS 197.251 or 197.633, 197.636 or 197.644;

13 (b) Persons who submitted comments or objections pursuant to procedures adopted by the **Land**
 14 **Conservation and Development** Commission for certification of state agency coordination pro-
 15 grams and are appealing a certification issued under ORS 197.180 (6);

16 (c) Persons who petitioned [*the*] a **regional** commission for an order under ORS 197.324 and
 17 whose petition was dismissed; or

18 (d) Persons who submitted oral or written testimony in a proceeding before [*the*] a **regional**
 19 commission pursuant to ORS 215.780.

20 (2) Notwithstanding ORS 183.482 (2) relating to contents of the petition, the petition shall state
 21 the nature of the order petitioner desires reviewed and whether the petitioner submitted comments
 22 or objections as provided in ORS 197.251 (2) or pursuant to ORS 197.633, 197.636 or 197.644.

23 (3) Notwithstanding ORS 183.482 (2) relating to service of the petition, copies of the petition
 24 shall be served by registered or certified mail upon the Department of Land Conservation and De-
 25 velopment, the local government and all persons who filed comments or objections.

26 **SECTION 52.** ORS 197.656 is amended to read:

27 197.656. (1) Upon invitation by the local governments in a region, the **Department of Land**
 28 **Conservation and Development** [*Commission*] and other state agencies may participate with the local
 29 governments in a collaborative regional problem-solving process.

30 (2) Following the procedures set forth in this subsection, the **regional commission for the re-**
 31 **gion** may acknowledge amendments to comprehensive plans and land use regulations, or new land
 32 use regulations, that do not fully comply with the rules of the **regional** commission that implement
 33 the statewide planning goals, without taking an exception, upon a determination that:

34 (a) The amendments or new provisions are based upon agreements reached by all local partic-
 35 ipants, the **regional** commission and other participating state agencies, in the collaborative regional
 36 problem-solving process;

37 (b) The regional problem-solving process has included agreement among the participants on:

38 (A) Regional goals for resolution of each regional problem that is the subject of the process;

39 (B) Optional techniques to achieve the goals for each regional problem that is the subject of the
 40 process;

41 (C) Measurable indicators of performance toward achievement of the goals for each regional
 42 problem that is the subject of the process;

43 (D) A system of incentives and disincentives to encourage successful implementation of the
 44 techniques chosen by the participants to achieve the goals;

45 (E) A system for monitoring progress toward achievement of the goals; and

1 (F) A process for correction of the techniques if monitoring indicates that the techniques are
2 not achieving the goals; and

3 (c) The agreement reached by regional problem-solving process participants and the implement-
4 ing plan amendments and land use regulations conform, on the whole, with the purposes of the
5 statewide planning goals.

6 (3) A local government that amends an acknowledged comprehensive plan or land use regulation
7 or adopts a new land use regulation in order to implement an agreement reached in a regional
8 problem-solving process shall submit the amendment or new regulation to the **regional** commission
9 **for the region** in the manner set forth in ORS 197.628 to 197.650 for periodic review or set forth
10 in ORS 197.251 for acknowledgment.

11 (4) The **regional** commission **for the region** shall have exclusive jurisdiction for review of
12 amendments or new regulations described in subsection (3) of this section. A participant or
13 stakeholder in the collaborative regional problem-solving process shall not raise an issue before the
14 **regional** commission on review that was not raised at the local level.

15 (5) If the **regional** commission **for the region** denies an amendment or new regulation submitted
16 pursuant to subsection (3) of this section, the **regional** commission shall issue a written statement
17 describing the reasons for the denial and suggesting alternative methods for accomplishing the goals
18 on a timely basis.

19 (6) If, in order to resolve regional land use problems, the participants in a collaborative regional
20 problem-solving process decide to devote agricultural land or forestland, as defined in the statewide
21 planning goals, to uses not authorized by those goals, the participants shall choose land that is not
22 part of the region's commercial agricultural or forestland base, or take an exception to those goals
23 pursuant to ORS 197.732. To identify land that is not part of the region's commercial agricultural
24 or forestland base, the participants shall consider the recommendation of a committee of persons
25 appointed by the affected county, with expertise in appropriate fields, including but not limited to
26 farmers, ranchers, foresters and soils scientists and representatives of the State Department of Ag-
27 riculture, the State Department of Forestry and the Department of Land Conservation and Devel-
28 opment.

29 (7) The Governor shall require all appropriate state agencies to participate in the collaborative
30 regional problem-solving process.

31 **SECTION 53.** ORS 197.658 is amended to read:

32 197.658. In addition to the provisions of ORS 197.644, the [*Land Conservation and Development*]
33 **regional** commission **for the region** may modify an approved work program when a local govern-
34 ment has agreed to participate in a collaborative regional problem-solving process pursuant to ORS
35 197.654 and 197.656.

36 **SECTION 54.** ORS 197.712 is amended to read:

37 197.712. (1) In addition to the findings and policies set forth in ORS 197.005, 197.010 and 215.243,
38 the Legislative Assembly finds and declares that, in carrying out statewide comprehensive land use
39 planning, the provision of adequate opportunities for a variety of economic activities throughout the
40 state is vital to the health, welfare and prosperity of all the people of the state.

41 (2) By the adoption of new goals or rules, or the application, interpretation or amendment of
42 existing goals or rules, the Land Conservation and Development Commission **and the regional**
43 **commissions** shall implement all of the following:

44 (a) Comprehensive plans shall include an analysis of the community's economic patterns,
45 potentialities, strengths and deficiencies as they relate to state and national trends.

1 (b) Comprehensive plans shall contain policies concerning the economic development opportu-
 2 nities in the community.

3 (c) Comprehensive plans and land use regulations shall provide for at least an adequate supply
 4 of sites of suitable sizes, types, locations and service levels for industrial and commercial uses con-
 5 sistent with plan policies.

6 (d) Comprehensive plans and land use regulations shall provide for compatible uses on or near
 7 sites zoned for specific industrial and commercial uses.

8 (e) A city or county shall develop and adopt a public facility plan for areas within an urban
 9 growth boundary containing a population greater than 2,500 persons. The public facility plan shall
 10 include rough cost estimates for public projects needed to provide sewer, water and transportation
 11 for the land uses contemplated in the comprehensive plan and land use regulations. Project timing
 12 and financing provisions of public facility plans shall not be considered land use decisions.

13 (f) In accordance with ORS 197.180, state agencies that provide funding for transportation, water
 14 supply, sewage and solid waste facilities shall identify in their coordination programs how they will
 15 coordinate that funding with other state agencies and with the public facility plans of cities and
 16 counties. In addition, state agencies that issue permits affecting land use shall identify in their co-
 17 ordination programs how they will coordinate permit issuance with other state agencies and cities
 18 and counties.

19 (g) Local governments shall provide:

20 (A) Reasonable opportunities to satisfy local and rural needs for residential and industrial de-
 21 velopment and other economic activities on appropriate lands outside urban growth boundaries, in
 22 a manner consistent with conservation of the state’s agricultural and forest land base; and

23 (B) Reasonable opportunities for urban residential, commercial and industrial needs over time
 24 through changes to urban growth boundaries.

25 (3) A comprehensive plan and land use regulations shall be in compliance with this section by
 26 the first periodic review of that plan and regulations.

27 **SECTION 55.** ORS 197.717 is amended to read:

28 197.717. (1) State agencies shall provide technical assistance to local governments in:

29 (a) Planning and zoning land adequate in amount, size, topography, transportation access and
 30 surrounding land use and public facilities for the special needs of various industrial and commercial
 31 uses;

32 (b) Developing public facility plans; and

33 (c) Streamlining local permit procedures.

34 (2) The Economic and Community Development Department shall provide a local government
 35 with “state and national trend” information to assist in compliance with ORS 197.712 (2)(a).

36 (3) The Land Conservation and Development Commission shall **and the regional commissions**
 37 **may** develop model ordinances to assist local governments in streamlining local permit procedures.

38 (4) The Department of Land Conservation and Development and the Economic and Community
 39 Development Department shall establish a joint program to assist rural communities with economic
 40 and community development services. The assistance shall include, but not be limited to, grants,
 41 loans, model ordinances and technical assistance. The purposes of the assistance are to remove ob-
 42 stacles to economic and community development and to facilitate that development. The departments
 43 shall give priority to communities with high rates of unemployment.

44 **SECTION 56.** ORS 197.768 is amended to read:

45 197.768. (1) As used in this section, “special district” has the meaning given that term in ORS

1 197.505.

2 (2)(a) A local government or special district may adopt a public facilities strategy if the public
3 facilities strategy:

4 (A)(i) Is acknowledged under ORS 197.251; or

5 (ii) Is approved by the [*Land Conservation and Development*] **regional commission for the region**
6 under ORS 197.628 to 197.650; and

7 (B) Meets the requirements of this section.

8 (b) If a special district seeks to implement a public facilities strategy, that special district is
9 considered a local government for the purposes of ORS 197.251 and 197.628 to 197.650.

10 (3) A local government or special district may adopt a public facilities strategy only if the local
11 government or special district:

12 (a) Makes written findings justifying the need for the public facilities strategy;

13 (b) Holds a public hearing on the adoption of a public facilities strategy and the findings that
14 support the adoption of the public facilities strategy; and

15 (c) Provides written notice to the Department of Land Conservation and Development at least
16 45 days prior to the final public hearing that is held to consider the adoption of the public facilities
17 strategy.

18 (4) At a minimum, the findings under subsection (3) of this section must demonstrate that:

19 (a) There is a rapid increase in the rate or intensity of land development in a specific geographic
20 area that was unanticipated at the time the original planning for that area was adopted or there
21 has been a natural disaster or other catastrophic event in a specific geographic area;

22 (b) The total land development expected within the specific geographic area will exceed the
23 planned or existing capacity of public facilities; and

24 (c) The public facilities strategy is structured to ensure that the necessary supply of housing
25 and commercial and industrial facilities that will be impacted within the relevant geographic area
26 is not unreasonably restricted by the adoption of the public facilities strategy.

27 (5) A public facilities strategy shall include a clear, objective and detailed description of actions
28 and practices a local government or special district may engage in to control the time and sequence
29 of development approvals in response to the identified deficiencies in public facilities.

30 (6) A public facilities strategy shall be effective for no more than 24 months after the date on
31 which it is adopted, but may be extended, subject to subsection (7) of this section, provided the local
32 government or special district adopting the public facilities strategy holds a public hearing on the
33 proposed extension and adopts written findings that:

34 (a) Verify that the problem giving rise to the need for a public facilities strategy still exists;

35 (b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to
36 the need for a public facilities strategy; and

37 (c) Set a specific duration for the extension of the public facilities strategy.

38 (7)(a) A local government or special district considering an extension of a public facilities
39 strategy shall give the department notice at least 14 days prior to the date of the public hearing
40 on the extension.

41 (b) A single extension may not exceed one year, and a public facilities strategy may not be ex-
42 tended more than three times.

43 **SECTION 57.** ORS 197.825 is amended to read:

44 197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the
45 Land Use Board of Appeals shall have exclusive jurisdiction to review:

1 (a) Any land use decision or limited land use decision of a local government, special district or
 2 a state agency in the manner provided in ORS 197.830 to 197.845.

3 (b) **A petition filed by the Land Conservation and Development Commission alleging that**
 4 **a rule or order of a regional commission is not consistent with the statewide land use plan-**
 5 **ning goals adopted under ORS 197.225.**

6 (c) **A petition filed by a local government challenging a determination by the Land Con-**
 7 **servation and Development Commission that the local government’s comprehensive plan,**
 8 **regional framework plan, land use regulation or order is not consistent with the statewide**
 9 **land use planning goals adopted under ORS 197.225.**

10 (2) The jurisdiction of the board:

11 (a) Is limited to those cases in which the petitioner has exhausted all remedies available by right
 12 before petitioning the board for review;

13 (b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Ap-
 14 peals;

15 (c) Does not include a local government decision that is:

16 (A) Submitted to the Department of Land Conservation and Development for acknowledgment
 17 under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government de-
 18 cision submitted to the department for acknowledgment, unless the Director of the Department of
 19 Land Conservation and Development, in the director’s sole discretion, transfers the matter to the
 20 board; or

21 (B) Subject to the review authority of the department under ORS 197.430, 197.445, 197.450 or
 22 197.455 or a matter related to a local government decision subject to the review authority of the
 23 department under ORS 197.430, 197.445, 197.450 or 197.455;

24 (d) Does not include those land use decisions of a state agency over which the Court of Appeals
 25 has jurisdiction for initial judicial review under ORS 183.400[,] or 183.482 or other statutory pro-
 26 visions;

27 (e) Does not include any rules, programs, decisions, determinations or activities carried out un-
 28 der ORS 527.610 to 527.770, 527.990 (1) and 527.992;

29 (f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the
 30 Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River
 31 Gorge National Scenic Area Act, P.L. 99-663; and

32 (g) Does not include review of expedited land divisions under ORS 197.360.

33 (3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain juris-
 34 diction:

35 (a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions
 36 described in ORS 197.015 (11)(b) or proceedings brought to enforce the provisions of an adopted
 37 comprehensive plan or land use regulations; and

38 (b) To enforce orders of the board in appropriate proceedings brought by the board or a party
 39 to the board proceeding resulting in the order.

40 **SECTION 58.** ORS 197.835 is amended to read:

41 197.835. (1) The Land Use Board of Appeals shall review the land use decision or limited land
 42 use decision and prepare a final order affirming, reversing or remanding the land use decision or
 43 limited land use decision. The board shall adopt rules defining the circumstances in which it will
 44 reverse rather than remand a land use decision or limited land use decision that is not affirmed.

45 (2)(a) Review of a decision under ORS 197.830 to 197.845 shall be confined to the record.

1 (b) In the case of disputed allegations of standing, unconstitutionality of the decision, ex parte
 2 contacts, actions described in subsection (10)(a)(B) of this section or other procedural irregularities
 3 not shown in the record that, if proved, would warrant reversal or remand, the board may take ev-
 4 idence and make findings of fact on those allegations. The board shall be bound by any finding of
 5 fact of the local government, special district or state agency for which there is substantial evidence
 6 in the whole record.

7 (3) Issues shall be limited to those raised by any participant before the local hearings body as
 8 provided by ORS 197.195 or 197.763, whichever is applicable.

9 (4) A petitioner may raise new issues to the board if:

10 (a) The local government failed to list the applicable criteria for a decision under ORS 197.195
 11 (3)(c) or 197.763 (3)(b), in which case a petitioner may raise new issues based upon applicable crite-
 12 ria that were omitted from the notice. However, the board may refuse to allow new issues to be
 13 raised if it finds that the issue could have been raised before the local government; or

14 (b) The local government made a land use decision or limited land use decision which is different
 15 from the proposal described in the notice to such a degree that the notice of the proposed action
 16 did not reasonably describe the local government's final action.

17 (5) The board shall reverse or remand a land use decision not subject to an acknowledged
 18 comprehensive plan and land use regulations if the decision does not comply with the goals. The
 19 board shall reverse or remand a land use decision or limited land use decision subject to an ac-
 20 knowledged comprehensive plan or land use regulation if the decision does not comply with the
 21 goals and the [*Land Conservation and Development*] **regional commission for the region** has issued
 22 an order under ORS 197.320 or **the Land Conservation and Development Commission** has
 23 adopted a new or amended goal under ORS 197.245 requiring the local government to apply the
 24 goals to the type of decision being challenged.

25 (6) The board shall reverse or remand an amendment to a comprehensive plan if the amendment
 26 is not in compliance with the goals.

27 (7) The board shall reverse or remand an amendment to a land use regulation or the adoption
 28 of a new land use regulation if:

29 (a) The regulation is not in compliance with the comprehensive plan; or

30 (b) The comprehensive plan does not contain specific policies or other provisions which provide
 31 the basis for the regulation, and the regulation is not in compliance with the statewide planning
 32 goals.

33 (8) The board shall reverse or remand a decision involving the application of a plan or land use
 34 regulation provision if the decision is not in compliance with applicable provisions of the compre-
 35 hensive plan or land use regulations.

36 (9) In addition to the review under subsections (1) to (8) of this section, the board shall reverse
 37 or remand the land use decision under review if the board finds:

38 (a) The local government or special district:

39 (A) Exceeded its jurisdiction;

40 (B) Failed to follow the procedures applicable to the matter before it in a manner that preju-
 41 diced the substantial rights of the petitioner;

42 (C) Made a decision not supported by substantial evidence in the whole record;

43 (D) Improperly construed the applicable law; or

44 (E) Made an unconstitutional decision; or

45 (b) The state agency made a decision that violated the goals.

1 (10)(a) The board shall reverse a local government decision and order the local government to
 2 grant approval of an application for development denied by the local government if the board finds:

3 (A) Based on the evidence in the record, that the local government decision is outside the range
 4 of discretion allowed the local government under its comprehensive plan and implementing ordi-
 5 nances; or

6 (B) That the local government's action was for the purpose of avoiding the requirements of ORS
 7 215.427 or 227.178.

8 (b) If the board does reverse the decision and orders the local government to grant approval of
 9 the application, the board shall award attorney fees to the applicant and against the local govern-
 10 ment.

11 (11)(a) Whenever the findings, order and record are sufficient to allow review, and to the extent
 12 possible consistent with the time requirements of ORS 197.830 (14), the board shall decide all issues
 13 presented to it when reversing or remanding a land use decision described in subsections (2) to (9)
 14 of this section or limited land use decision described in ORS 197.828 and 197.195.

15 (b) Whenever the findings are defective because of failure to recite adequate facts or legal
 16 conclusions or failure to adequately identify the standards or their relation to the facts, but the
 17 parties identify relevant evidence in the record which clearly supports the decision or a part of the
 18 decision, the board shall affirm the decision or the part of the decision supported by the record and
 19 remand the remainder to the local government, with direction indicating appropriate remedial
 20 action.

21 (12) The board may reverse or remand a land use decision under review due to ex parte contacts
 22 or bias resulting from ex parte contacts with a member of the decision-making body, only if the
 23 member of the decision-making body did not comply with ORS 215.422 (3) or 227.180 (3), whichever
 24 is applicable.

25 (13) Subsection (12) of this section does not apply to reverse or remand of a land use decision
 26 due to ex parte contact or bias resulting from ex parte contact with a hearings officer.

27 (14) The board shall reverse or remand a land use decision or limited land use decision which
 28 violates a **regional** commission order issued under ORS 197.328.

29 (15) In cases in which a local government provides a quasi-judicial land use hearing on a limited
 30 land use decision, the requirements of subsections (12) and (13) of this section apply.

31 (16) The board may decide cases before it by means of memorandum decisions and shall prepare
 32 full opinions only in such cases as it deems proper.

33 **SECTION 59.** ORS 197.840 is amended to read:

34 197.840. (1) The following periods of delay shall be excluded from the 77-day period within which
 35 the board must make a final decision on a petition under ORS 197.830 (14):

36 (a) Any period of delay up to 120 days resulting from the board's deferring all or part of its
 37 consideration of a petition for review of a land use decision or limited land use decision that
 38 allegedly violates the goals if the decision has been:

39 (A) Submitted for acknowledgment under ORS 197.251; or

40 (B) Submitted to the Department of Land Conservation and Development as part of a periodic
 41 review work program task pursuant to ORS 197.628 to 197.650 and not yet acknowledged.

42 (b) Any period of delay resulting from a motion, including but not limited to, a motion disputing
 43 the constitutionality of the decision, standing, ex parte contacts or other procedural irregularities
 44 not shown in the record.

45 (c) Any reasonable period of delay resulting from a request for a stay under ORS 197.845.

1 (d) Any reasonable period of delay resulting from a continuance granted by a member of the
 2 board on the member's own motion or at the request of one of the parties, if the member granted
 3 the continuance on the basis of findings that the ends of justice served by granting the continuance
 4 outweigh the best interest of the public and the parties in having a decision within 77 days.

5 (2) No period of delay resulting from a continuance granted by the board under subsection (1)(d)
 6 of this section shall be excludable under this section unless the board sets forth in the record, either
 7 orally or in writing, its reasons for finding that the ends of justice served by granting the contin-
 8 uance outweigh the best interests of the public and the other parties in a decision within the 77
 9 days. The factors the board shall consider in determining whether to grant a continuance under
 10 subsection (1)(d) of this section in any case are as follows:

11 (a) Whether the failure to grant a continuance in the proceeding would be likely to make a
 12 continuation of the proceeding impossible or result in a miscarriage of justice; or

13 (b) Whether the case is so unusual or so complex, due to the number of parties or the existence
 14 of novel questions of fact or law, that it is unreasonable to expect adequate consideration of the
 15 issues within the 77-day time limit.

16 (3) No continuance under subsection (1)(d) of this section shall be granted because of general
 17 congestion of the board calendar or lack of diligent preparation or attention to the case by any
 18 member of the board or any party.

19 (4) The board may defer all or part of its consideration of a land use decision or limited land
 20 use decision described in subsection (1)(a) of this section until the **Department of Land Conserva-**
 21 **tion and Development [Commission]** has disposed of the acknowledgment proceeding described in
 22 subsection (1)(a) of this section. If the board deferred all or part of its consideration of a decision
 23 under this subsection, the board may grant a stay of the comprehensive plan provision, land use
 24 regulation, limited land use decision or land use decision under ORS 197.845.

25 **SECTION 60.** ORS 183.457 is amended to read:

26 183.457. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by an-
 27 other law, a person participating in a contested case hearing conducted by an agency described in
 28 this subsection may be represented by an attorney or by an authorized representative subject to the
 29 provisions of subsection (2) of this section. The Attorney General shall prepare model rules for
 30 proceedings with lay representation that do not have the effect of precluding lay representation.
 31 No rule adopted by a state agency shall have the effect of precluding lay representation. The
 32 agencies before which an authorized representative may appear are:

33 (a) The State Landscape Contractors Board in the administration of the Landscape Contractors
 34 Law.

35 (b) The State Department of Energy and the Energy Facility Siting Council.

36 (c) The Environmental Quality Commission and the Department of Environmental Quality.

37 (d) The Department of Consumer and Business Services for proceedings in which an insured
 38 appears pursuant to ORS 737.505.

39 (e) The Department of Consumer and Business Services and any other agency for the purpose
 40 of proceedings to enforce the state building code, as defined by ORS 455.010.

41 (f) The State Fire Marshal in the Department of State Police.

42 (g) The Department of State Lands for proceedings regarding the issuance or denial of fill or
 43 removal permits under ORS 196.800 to 196.825.

44 (h) The Public Utility Commission.

45 (i) The Water Resources Commission and the Water Resources Department.

1 (j) The [*Land Conservation and Development Commission and the*] Department of Land Conser-
 2 vation and Development.

3 (k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

4 (L) The Bureau of Labor and Industries.

5 (2) A person participating in a contested case hearing as provided in subsection (1) of this sec-
 6 tion may appear by an authorized representative if:

7 (a) The agency conducting the contested case hearing has determined that appearance of such
 8 a person by an authorized representative will not hinder the orderly and timely development of the
 9 record in the type of contested case hearing being conducted;

10 (b) The agency conducting the contested case hearing allows, by rule, authorized representatives
 11 to appear on behalf of such participants in the type of contested case hearing being conducted; and

12 (c) The officer presiding at the contested case hearing may exercise discretion to limit an au-
 13 thorized representative’s presentation of evidence, examination and cross-examination of witnesses,
 14 or presentation of factual arguments to ensure the orderly and timely development of the hearing
 15 record, and shall not allow an authorized representative to present legal arguments except to the
 16 extent authorized under subsection (3) of this section.

17 (3) The officer presiding at a contested case hearing in which an authorized representative ap-
 18 pears under the provisions of this section may allow the authorized representative to present evi-
 19 dence, examine and cross-examine witnesses, and make arguments relating to the:

20 (a) Application of statutes and rules to the facts in the contested case;

21 (b) Actions taken by the agency in the past in similar situations;

22 (c) Literal meaning of the statutes or rules at issue in the contested case;

23 (d) Admissibility of evidence; and

24 (e) Proper procedures to be used in the contested case hearing.

25 (4) Upon judicial review, no limitation imposed by an agency presiding officer on the partic-
 26 ipation of an authorized representative shall be the basis for reversal or remand of agency action
 27 unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the
 28 agency action.

29 (5) For the purposes of this section, “authorized representative” means a member of a partic-
 30 ipating partnership, an authorized officer or regular employee of a participating corporation, asso-
 31 ciation or organized group, or an authorized officer or employee of a participating governmental
 32 authority other than a state agency.

33 **SECTION 61.** ORS 183.530 is amended to read:

34 183.530. A housing cost impact statement shall be prepared upon the proposal for adoption or
 35 repeal of any rule or any amendment to an existing rule by:

36 (1) The State Housing Council;

37 (2) A building codes division of the Department of Consumer and Business Services or any board
 38 associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

39 (3) The **Department of** Land Conservation and Development [*Commission*];

40 (4) The Environmental Quality Commission;

41 (5) The Construction Contractors Board;

42 (6) The Occupational Safety and Health Division of the Department of Consumer and Business
 43 Services; or

44 (7) The State Department of Energy.

45 **SECTION 62.** ORS 183.635 is amended to read:

1 183.635. (1) Except as provided in this section, all agencies must use administrative law judges
 2 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-
 3 tested case hearings, without regard to whether those hearings are subject to the procedural re-
 4 quirements for contested case hearings.

5 (2) The following agencies need not use administrative law judges assigned from the office:

6 (a) Attorney General.

7 (b) Boards of stewards appointed by the Oregon Racing Commission.

8 (c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

9 (d) Department of Corrections.

10 (e) Department of Education, State Board of Education and Superintendent of Public Instruction.

11 (f) Department of Higher Education and institutions of higher education listed in ORS 352.002.

12 (g) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.
 13 722(c) and disability determination cases under 42 U.S.C. 405.

14 (h) Department of Revenue.

15 (i) Department of State Police.

16 (j) Employment Appeals Board.

17 (k) Employment Relations Board.

18 (L) Energy Facility Siting Council.

19 (m) Fair Dismissal Appeals Board.

20 (n) Governor.

21 (o) **Department of** Land Conservation and Development [*Commission*].

22 (p) Land Use Board of Appeals.

23 (q) Local government boundary commissions created pursuant to ORS 199.425 or 199.430.

24 (r) Oregon Youth Authority.

25 (s) Psychiatric Security Review Board.

26 (t) Public Utility Commission.

27 (u) Secretary of State.

28 (v) State Accident Insurance Fund Corporation.

29 (w) State Apprenticeship and Training Council.

30 (x) State Board of Parole and Post-Prison Supervision.

31 (y) State Land Board.

32 (z) State Treasurer.

33 (aa) Wage and Hour Commission.

34 (3) The Workers' Compensation Board is exempt from using administrative law judges assigned
 35 from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except
 36 as specifically provided in this subsection, the Department of Consumer and Business Services must
 37 use administrative law judges assigned from the office only for contested cases arising out of the
 38 department's powers and duties under:

39 (a) ORS chapter 59;

40 (b) ORS 200.005 to 200.075;

41 (c) ORS chapter 455;

42 (d) ORS chapter 674;

43 (e) ORS chapters 706 to 716;

44 (f) ORS chapter 717;

45 (g) ORS chapters 722, 723, 725 and 726; and

1 (h) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748 and 750.

2 (4) Notwithstanding any other provision of law, in any proceeding in which an agency is re-
 3 quired to use an administrative law judge assigned from the office, an officer or employee of the
 4 agency may not conduct the hearing on behalf of the agency.

5 (5) Notwithstanding any other provision of ORS 183.600 to 183.690, an agency is not required to
 6 use an administrative law judge assigned from the office if:

7 (a) Federal law requires that a different administrative law judge or hearing officer be used; or

8 (b) Use of an administrative law judge from the office could result in a loss of federal funds.

9 (6) Notwithstanding any other provision of this section, the Department of Environmental
 10 Quality must use administrative law judges assigned from the office only for contested case hearings
 11 conducted under the provisions of ORS 183.413 to 183.470.

12 **SECTION 63.** ORS 195.020 is amended to read:

13 195.020. (1) Special districts shall exercise their planning duties, powers and responsibilities and
 14 take actions that are authorized by law with respect to programs affecting land use, including a city
 15 or special district boundary change as defined in ORS 197.175 (1), in accordance with goals approved
 16 pursuant to ORS chapters 195, 196 and 197.

17 (2) A county assigned coordinative functions under ORS 195.025 (1), or the Metropolitan Service
 18 District, which is assigned coordinative functions for Multnomah, Washington and Clackamas coun-
 19 ties by ORS 195.025 (1), shall enter into a cooperative agreement with each special district that
 20 provides an urban service within the boundaries of the county or the metropolitan district. A county
 21 or the Metropolitan Service District may enter into a cooperative agreement with any other special
 22 district operating within the boundaries of the county or the metropolitan district.

23 (3) The appropriate city and county and, if within the boundaries of the Metropolitan Service
 24 District, the Metropolitan Service District, shall enter into a cooperative agreement with each spe-
 25 cial district that provides an urban service within an urban growth boundary. The appropriate city
 26 and county, and the Metropolitan Service District, may enter into a cooperative agreement with any
 27 other special district operating within an urban growth boundary.

28 (4) The agreements described in subsection (2) of this section shall conform to the requirements
 29 of paragraphs (a) to (d), (f) and (g) of this subsection. The agreements described in subsection (3) of
 30 this section shall:

31 (a) Describe how the city or county will involve the special district in comprehensive planning,
 32 including plan amendments, periodic review and amendments to land use regulations;

33 (b) Describe the responsibilities of the special district in comprehensive planning, including plan
 34 amendments, periodic review and amendments to land use regulations regarding provision of urban
 35 services;

36 (c) Establish the role and responsibilities of each party to the agreement with respect to city
 37 or county approval of new development;

38 (d) Establish the role and responsibilities of the city or county with respect to district interests
 39 including, where applicable, water sources, capital facilities and real property, including rights of
 40 way and easements;

41 (e) Specify the units of local government which shall be parties to an urban service agreement
 42 under ORS 195.065;

43 (f) If a Metropolitan Service District is a party to the agreement, describe how the Metropolitan
 44 Service District will involve the special district in the exercise of the Metropolitan Service District's
 45 regional planning responsibilities; and

1 (g) Contain such other provisions as the **Department of** Land Conservation and Development
2 [*Commission*] may require by rule.

3 (5) Agreements required under subsections (2) and (3) of this section are subject to review by
4 the **regional commission for the region**. The **Land Conservation and Development** Commission
5 may provide by rule for periodic submission and review of cooperative agreements to [*insure*] **the**
6 **regional commission for the region to ensure** that they are consistent with acknowledged com-
7 prehensive plans.

8 **SECTION 64.** ORS 195.025 is amended to read:

9 195.025. (1) In addition to the responsibilities stated in ORS 197.175, each county, through its
10 governing body, shall be responsible for coordinating all planning activities affecting land uses
11 within the county, including planning activities of the county, cities, special districts and state
12 agencies, to [*assure*] **ensure** an integrated comprehensive plan for the entire area of the county. In
13 addition to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city
14 or special district boundary changes, as defined by ORS 197.175 (1), the governing body of the
15 Metropolitan Service District shall be considered the county review, advisory and coordinative body
16 for Multnomah, Clackamas and Washington Counties for the areas within that district.

17 (2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily
18 join together with adjacent counties as authorized in ORS 190.003 to 190.620.

19 (3) Whenever counties and cities representing 51 percent of the population in their area petition
20 the **Department of** Land Conservation and Development [*Commission*] for an election in their area
21 to form a regional planning agency to exercise the authority of the counties under subsection (1)
22 of this section in the area, the **regional commission for the region** shall review the petition. If it
23 finds that the area described in the petition forms a reasonable planning unit, it shall call an
24 election in the area on a date specified in ORS 203.085, to form a regional planning agency. The
25 election shall be conducted in the manner provided in ORS chapter 255. The county clerk shall be
26 considered the elections officer and the **regional** commission shall be considered the district
27 elections authority. The agency shall be considered established if the majority of votes favor the
28 establishment.

29 (4) If a voluntary association of local governments adopts a resolution ratified by each partic-
30 ipating county and a majority of the participating cities therein which authorizes the association to
31 perform the review, advisory and coordination functions assigned to the counties under subsection
32 (1) of this section, the association may perform such duties.

33 **SECTION 65.** ORS 195.040 is amended to read:

34 195.040. Upon the expiration of one year after the date of the approval of the goals and guide-
35 lines and annually thereafter, each county governing body, upon request of the [*Land Conservation*
36 *and Development*] **regional commission for the region**, shall report to the **regional** commission on
37 the status of comprehensive plans within each county. Each report shall include:

38 (1) Copies of comprehensive plans reviewed by the county governing body and copies of land
39 use regulations applied to areas of critical state concern within the county.

40 (2) For those areas or jurisdictions within the county without comprehensive plans, a statement
41 and review of the progress made toward compliance with the goals.

42 **SECTION 66.** ORS 195.085 is amended to read:

43 195.085. (1) No later than the first periodic review that begins after November 4, 1993, local
44 governments and special districts shall demonstrate compliance with ORS 195.020 and 195.065.

45 (2) The [*Land Conservation and Development*] **regional commission for the region** may adjust

1 the deadline for compliance under this section when cities and counties that are parties to an
 2 agreement under ORS 195.020 and 195.065 are scheduled for periodic review at different times.

3 (3) Local governments and special districts that are parties to an agreement in effect on No-
 4 vember 4, 1993, which provides for the future provision of an urban service shall demonstrate com-
 5 pliance with ORS 195.065 no later than the date such agreement expires or the second periodic
 6 review that begins after November 4, 1993, whichever comes first.

7 **SECTION 67.** ORS 195.120 is amended to read:

8 195.120. (1) The Legislative Assembly finds that Oregon’s parks are special places and the pro-
 9 tection of parks for the use and enjoyment of present and future generations is a matter of statewide
 10 concern.

11 (2) The **Department of** Land Conservation and Development [*Commission*], in cooperation with
 12 the State Parks and Recreation Commission and representatives of local government, shall adopt
 13 rules and land use planning goal amendments as necessary to provide for:

- 14 (a) Allowable uses in state and local parks that have adopted master plans;
- 15 (b) Local government planning necessary to implement state park master plans; and
- 16 (c) Coordination and dispute resolution among state and local agencies regarding planning and
 17 activities in state parks.

18 (3) Rules and goal amendments adopted under subsection (2) of this section shall provide for the
 19 following uses in state parks:

- 20 (a) Campgrounds, day use areas and supporting infrastructure, amenities and accessory visitor
 21 service facilities designed to meet the needs of park visitors;
- 22 (b) Recreational trails and boating facilities;
- 23 (c) Facilities supporting resource-interpretive and educational activities for park visitors;
- 24 (d) Park maintenance workshops, staff support facilities and administrative offices;
- 25 (e) Uses that directly support resource-based outdoor recreation; and
- 26 (f) Other park uses adopted by the **Department of** Land Conservation and Development [*Com-
 27 mission*].

28 (4) A local government shall not be required to adopt an exception under ORS 197.732 from a
 29 land use planning goal protecting agriculture or forestry resources to authorize a use identified by
 30 rule of the **Department of** Land Conservation and Development [*Commission*] under this section in
 31 a state or local park.

32 (5) A local government shall comply with the provisions of ORS 215.296 for all uses and activ-
 33 ities proposed in or adjacent to an exclusive farm use zone described in the state or local master
 34 plan as adopted by the local government and made a part of its comprehensive plan and land use
 35 regulation.

36 **SECTION 68.** ORS 195.145 is amended to read:

37 195.145. (1) To ensure that the supply of land available for urbanization is maintained, local
 38 governments may cooperatively designate lands outside urban growth boundaries as urban reserve
 39 areas, subject to ORS 197.610 to 197.625.

40 (2)(a) The [*Land Conservation and Development*] **regional commission for the region** may re-
 41 quire a local government to designate an urban reserve area during its periodic review in accord-
 42 ance with the conditions for periodic review under ORS 197.628.

43 (b) Notwithstanding paragraph (a) of this subsection, the **regional** commission may require a
 44 local government to designate an urban reserve area outside of its periodic review if:

- 45 (A) The local government is located inside a Primary Metropolitan Statistical Area or a Met-

1 ropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

2 (B) The local government has been required to designate an urban reserve area by rule prior
3 to November 4, 1993.

4 (3) In carrying out subsections (1) and (2) of this section:

5 (a) Within an urban reserve area, neither the **regional commission for the region** nor any local
6 government shall prohibit the siting on a legal parcel of a single family dwelling that would other-
7 wise have been allowed under law existing prior to designation as an urban reserve area.

8 (b) The **regional** commission shall provide to local governments a list of options, rather than
9 prescribing a single planning technique, to ensure the efficient transition from rural to urban use
10 in urban reserve areas.

11 (4) For purposes of this section, “urban reserve area” means lands outside an urban growth
12 boundary that will provide for:

13 (a) Future expansion over a long-term period; and

14 (b) The cost-effective provision of public facilities and service within the area when the lands
15 are included within the urban growth boundary.

16 **SECTION 69.** ORS 195.260 is amended to read:

17 195.260. (1) In order to reduce the risk of serious bodily injury or death resulting from rapidly
18 moving landslides, a local government:

19 (a) Shall exercise all available authority to protect the public during emergencies, consistent
20 with ORS 401.015.

21 (b) May require a geotechnical report and, if a report is required, shall provide for a coordinated
22 review of the geotechnical report by the State Department of Geology and Mineral Industries or the
23 State Forestry Department, as appropriate, before issuing a building permit for a site in a further
24 review area.

25 (c) Except those structures exempt from building codes under ORS 455.310 and 455.315, shall
26 amend its land use regulations, or adopt new land use regulations, to regulate the siting of dwellings
27 and other structures designed for human occupancy, including those being restored under ORS
28 215.130 (6), in further review areas where there is evidence of substantial risk for rapidly moving
29 landslides. All final decisions under this paragraph and paragraph (b) of this subsection are the re-
30 sponsibility of the local government with jurisdiction over the site. A local government may not
31 delegate such final decisions to any state agency.

32 (d) May deny a request to issue a building permit if a geotechnical report discloses that the
33 entire parcel is subject to a rapidly moving landslide or that the subject lot or parcel does not
34 contain sufficient buildable area that is not subject to a rapidly moving landslide.

35 (e) Shall maintain a record, available to the public, of properties for which a geotechnical report
36 has been prepared within the jurisdiction of the local government.

37 (2) A landowner allowed a building permit under subsection (1)(c) of this section shall sign a
38 statement that shall:

39 (a) Be recorded with the county clerk of the county in which the property is located, in which
40 the landowner acknowledges that the landowner may not in the future bring any action against an
41 adjacent landowner about the effects of rapidly moving landslides on or adjacent to the landowner’s
42 property; and

43 (b) Record in the deed records for the county where the lot or parcel is located a nonrevocable
44 deed restriction that the landowner signs and acknowledges, that contains a legal description com-
45 plying with ORS 93.600 and that prohibits any present or future owner of the property from bringing

1 any action against an adjacent landowner about the effects of rapidly moving landslides on or ad-
2 jacent to the property.

3 (3) Restrictions on forest practices adopted under ORS 527.710 (10) do not apply to risk situ-
4 ations arising solely from the construction of a building designed for human occupancy in a further
5 review area on or after October 23, 1999.

6 (4) The following state agencies shall implement the following specific responsibilities to reduce
7 the risk of serious bodily injury or death resulting from rapidly moving landslides:

8 (a) The State Department of Geology and Mineral Industries shall:

9 (A) Identify and map further review areas selected in cooperation with local governments and
10 in coordination with the State Forestry Department, and provide technical assistance to local gov-
11 ernments to facilitate the use and application of this information pursuant to subsection (1)(b) of this
12 section; and

13 (B) Provide public education regarding landslide hazards.

14 (b) The State Forestry Department shall regulate forest operations to reduce the risk of serious
15 bodily injury or death from rapidly moving landslides directly related to forest operations, and assist
16 local governments in the siting review of permanent dwellings on and adjacent to forestlands in
17 further review areas pursuant to subsection (1)(b) of this section.

18 (c) The **Department of** Land Conservation and Development [*Commission*] may take steps under
19 its existing authority to assist local governments to appropriately apply the requirements of sub-
20 section (1)(c) of this section.

21 (d) The Department of Transportation shall provide warnings to motorists during periods deter-
22 mined to be of highest risk of rapidly moving landslides along areas on state highways with a history
23 of being most vulnerable to rapidly moving landslides.

24 (e) The Office of Emergency Management of the Department of State Police shall coordinate
25 state resources for rapid and effective response to landslide-related emergencies.

26 (5) Notwithstanding any other provision of law, any state or local agency adopting rules related
27 to the risk of serious bodily injury or death from rapidly moving landslides shall do so only in con-
28 formance with the policies and provisions of ORS 195.250 to 195.260.

29 (6) No state or local agency may adopt or enact any rule or ordinance for the purpose of re-
30 ducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of
31 land that is in addition to land identified as a further review area by the State Department of
32 Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this
33 section.

34 (7) Except as provided in ORS 527.710 or in Oregon's ocean and coastal land use planning goals,
35 no state agency may adopt criteria regulating activities for the purpose of reducing risk of serious
36 bodily injury or death from rapidly moving landslides on lands subject to the provisions of ORS
37 195.250 to 195.260 that are more restrictive than the criteria adopted by a local government pursu-
38 ant to subsection (1)(c) of this section.

39 **SECTION 70.** ORS 196.681 is amended to read:

40 196.681. (1) In accordance with rules adopted pursuant to this chapter, the Department of State
41 Lands shall:

42 (a) Review any proposed wetland conservation plan or proposed amendment to an approved
43 wetland conservation plan against the standards in this section;

44 (b) Prepare a proposed order that approves, approves with conditions or denies the proposed
45 wetland conservation plan or proposed amendment to an approved wetland conservation plan;

- 1 (c) Provide notice and the opportunity for public hearing and comment on the proposed order;
- 2 (d) Consult with affected local, state and federal agencies; and
- 3 (e) Consider the applicable findings made in the order of acknowledgment issued by the [*Land*
- 4 *Conservation and Development*] **regional commission for the region.**

5 (2) The Director of the Department of State Lands may approve by order a wetland conservation
6 plan that includes the necessary elements of ORS 196.678 (2) and meets the standards of subsections
7 (3) and (4) of this section.

8 (3) A wetland conservation plan shall comply with the following standards:

9 (a) Uses and activities permitted in the plan including fill or removal, or both, conform to sound
10 policies of conservation and will not interfere with public health and safety;

11 (b) Uses and activities permitted in the plan including fill or removal, or both, are not incon-
12 sistent with the protection, conservation and best use of the water resources of this state and the
13 use of state waters for navigation, fishing and public recreation; and

14 (c) Designation of wetlands for protection, conservation and development is consistent with the
15 resource functions and values of the area and the capability of the wetland area to withstand al-
16 terations and maintain important functions and values.

17 (4) Wetland areas may be designated for development including fill or removal, or both, only if
18 they meet the following standards:

19 (a) There is a public need for the proposed uses set forth in the acknowledged comprehensive
20 plan for the area;

21 (b) Any planned wetland losses shall be fully offset by creation, restoration or enhancement of
22 wetland functions and values or in an estuarine area, estuarine resource replacement is consistent
23 with ORS 196.830; and

24 (c) Practicable, less damaging alternatives, including alternative locations for the proposed use
25 are not available.

26 (5) Approval by the director of a wetland conservation plan shall be conditioned upon adoption
27 by the affected local governments of comprehensive plan policies and land use regulations consistent
28 with and sufficient to implement the wetland conservation plan. Appropriate implementing measures
29 may include the following planning and zoning requirements regulating:

30 (a) Adjacent lands or buffer areas necessary to maintain, protect or restore wetland functions
31 and values, including riparian vegetation, and the uses to be allowed in those areas;

32 (b) Sites for mitigation of impacts from development activities;

33 (c) Upland areas adjacent to wetlands; and

34 (d) Activities or location of buildings, structures and improvements which may affect wetland
35 values or functions, such as storm water runoff.

36 (6) The director shall issue an order approving, approving with conditions or denying a wetland
37 conservation plan, including a clear statement of findings which sets forth the basis for the approval,
38 conditioning or denial. The order shall include:

39 (a) A clear statement of findings that the elements specified in ORS 196.678 (2) have been de-
40 veloped;

41 (b) The findings in support of the determination of compliance or noncompliance with the stan-
42 dards in subsections (3) and (4) of this section; and

43 (c) The conditions under which fill or removal or both may occur.

44 (7) The director may, as a part of an order approving a plan, authorize site-specific fill or re-
45 moval without an individual permit as required by ORS 196.810 provided that:

1 (a) The director adopts findings demonstrating that fill or removal for any proposed project
 2 complies with ORS 196.682 (1)(a) to (e); or

3 (b) The director adopts findings that specific areas of fill or removal within areas designated as
 4 development in the plan meet the following standards:

5 (A) The fill or removal approved by the order will result in minimal impacts to the wetland
 6 system in the planning area;

7 (B) The public need for the proposed area of fill or removal outweighs the environmental damage
 8 likely to result from full development;

9 (C) The director conditions any such order as necessary to ensure that the fill or removal, or
 10 both, is designed to minimize impacts from implementing the project; and

11 (D) Full replacement of wetland losses is provided through creation, restoration or enhancement
 12 of wetlands with comparable functions and values.

13 (8) Upon a finding by the director that a fill or removal, or both, authorized under subsection
 14 (7)(b) of this section has caused or is likely to cause more than minimal adverse impact to the
 15 wetland system considering required mitigation conditions, the director shall revise the order to
 16 require individual permit review according to ORS 196.682 or provide additional conditions to ensure
 17 that adverse impacts are minimal. Such revision shall not be subject to ORS 196.684.

18 **SECTION 71.** ORS 215.213 is amended to read:

19 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
 20 Edition), the following uses may be established in any area zoned for exclusive farm use:

21 (a) Public or private schools, including all buildings essential to the operation of a school.

22 (b) Churches and cemeteries in conjunction with churches.

23 (c) The propagation or harvesting of a forest product.

24 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
 25 not including commercial facilities for the purpose of generating electrical power for public use by
 26 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
 27 may be established as provided in ORS 215.275.

28 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
 29 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
 30 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
 31 operator does or will require the assistance of the relative in the management of the farm use and
 32 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 33 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
 34 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
 35 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
 36 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
 37 shall operate as a partition of the homesite to create a new parcel.

38 (f) Nonresidential buildings customarily provided in conjunction with farm use.

39 (g) Primary or accessory dwellings customarily provided in conjunction with farm use. For a
 40 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-
 41 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-
 42 edged under ORS 197.251.

43 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
 44 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
 45 compressors, separators and other customary production equipment for an individual well adjacent

1 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
 2 an exception under ORS 197.732 (1)(a) or (b).

3 (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
 4 construction relating to such operations shall not be a basis for an exception under ORS 197.732
 5 (1)(a) or (b).

6 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
 7 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
 8 necessary for its operation.

9 (k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
 10 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
 11 hardship suffered by the existing resident or a relative of the resident. Within three months of the
 12 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
 13 ished or, in the case of an existing building, the building shall be removed, demolished or returned
 14 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
 15 view of the hardship claimed under this paragraph. A temporary residence approved under this
 16 paragraph is not eligible for replacement under paragraph (t) of this subsection.

17 (L) The breeding, kenneling and training of greyhounds for racing in any county with a popu-
 18 lation of more than 200,000 in which there is located a greyhound racing track or in a county with
 19 a population of more than 200,000 that is contiguous to such a county.

20 (m) Climbing and passing lanes within the right of way existing as of July 1, 1987.

21 (n) Reconstruction or modification of public roads and highways, including the placement of
 22 utility facilities overhead and in the subsurface of public roads and highways along the public right
 23 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
 24 would occur, or no new land parcels result.

25 (o) Temporary public road and highway detours that will be abandoned and restored to original
 26 condition or use at such time as no longer needed.

27 (p) Minor betterment of existing public road and highway related facilities, such as maintenance
 28 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
 29 public-owned property utilized to support the operation and maintenance of public roads and high-
 30 ways.

31 (q) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
 32 been listed in a county inventory as historic property as defined in ORS 358.480.

33 (r) Creation of, restoration of or enhancement of wetlands.

34 (s) A winery, as described in ORS 215.452.

35 (t) Alteration, restoration or replacement of a lawfully established dwelling that:

36 (A) Has intact exterior walls and roof structure;

37 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
 38 a sanitary waste disposal system;

39 (C) Has interior wiring for interior lights;

40 (D) Has a heating system; and

41 (E) In the case of replacement:

42 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
 43 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
 44 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
 45 siting standards. However, the standards shall not be applied in a manner that prohibits the siting

1 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
 2 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
 3 deed records for the county where the property is located a deed restriction prohibiting the siting
 4 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
 5 a statement of release is placed in the deed records for the county. The release shall be signed by
 6 the county or its designee and state that the provisions of this paragraph regarding replacement
 7 dwellings have changed to allow the siting of another dwelling. The county planning director or the
 8 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
 9 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
 10 and release statements filed under this paragraph; and

11 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
 12 ished within three months after the deferred replacement permit is issued. A deferred replacement
 13 permit allows construction of the replacement dwelling at any time. If, however, the established
 14 dwelling is not removed or demolished within three months after the deferred replacement permit
 15 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
 16 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
 17 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
 18 or otherwise, except by the applicant to the spouse or a child of the applicant.

19 (u) Farm stands if:

20 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 21 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 22 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
 23 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
 24 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
 25 and

26 (B) The farm stand does not include structures designed for occupancy as a residence or for
 27 activity other than the sale of farm crops or livestock and does not include structures for banquets,
 28 public gatherings or public entertainment.

29 (v) An armed forces reserve center, if the center is within one-half mile of a community college.
 30 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
 31 Guard support facility.

32 (w) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
 33 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
 34 area or placed on a permanent foundation unless the building or facility preexisted the use approved
 35 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
 36 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
 37 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
 38 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
 39 ground.

40 (x) A facility for the processing of farm crops located on a farm operation that provides at least
 41 one-quarter of the farm crops processed at the facility. The building established for the processing
 42 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
 43 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
 44 activities within another building supporting farm uses. A processing facility shall comply with all
 45 applicable siting standards but the standards shall not be applied in a manner that prohibits the

1 siting of the processing facility.

2 (y) Fire service facilities providing rural fire protection services.

3 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-
4 sociated with a district as defined in ORS 540.505.

5 (aa) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
6 cilities or structures that end at the point where the utility service is received by the customer and
7 that are located on one or more of the following:

8 (A) A public right of way;

9 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
10 jacent property owners has been obtained; or

11 (C) The property to be served by the utility.

12 (bb) Subject to the issuance of a license, permit or other approval by the Department of Envi-
13 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
14 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
15 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
16 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
17 exclusive farm use zone under this chapter.

18 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
19 the following uses may be established in any area zoned for exclusive farm use subject to ORS
20 215.296:

21 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
22 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
23 eration or woodlot:

24 (A) Consists of 20 or more acres; and

25 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
26 annual gross income from the crops, livestock or forest products to be raised on the farm operation
27 or woodlot.

28 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
29 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
30 quired under paragraph (a) of this subsection, if the lot or parcel:

31 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
32 years out of the three calendar years before the year in which the application for the dwelling was
33 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
34 in annual gross farm income; or

35 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
36 nual income.

37 (c) Commercial activities that are in conjunction with farm use but not including the processing
38 of farm crops as described in subsection (1)(x) of this section.

39 (d) Operations conducted for:

40 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
41 as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

42 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
43 sources subject to ORS 215.298;

44 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

45 (D) Processing of other mineral resources and other subsurface resources.

1 (e) Community centers owned by a governmental agency or a nonprofit community organization
2 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
3 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
4 county governing body or its designee, a private campground may provide yurts for overnight
5 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
6 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
7 Upon request of a county governing body, the [*Land Conservation and Development*] **regional land**
8 **use planning** commission **for the region** may provide by rule for an increase in the number of yurts
9 allowed on all or a portion of the campgrounds in a county if the **regional** commission determines
10 that the increase will comply with the standards described in ORS 215.296 (1). A public park or
11 campground may be established as provided under ORS 195.120. As used in this paragraph, “yurt”
12 means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage
13 disposal hookup or internal cooking appliance.

14 (f) Golf courses.

15 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

16 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
17 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
18 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
19 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
20 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
21 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
22 granted through waiver action by the Oregon Department of Aviation in specific instances. A
23 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
24 ject to any applicable rules of the Oregon Department of Aviation.

25 (i) A facility for the primary processing of forest products, provided that such facility is found
26 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
27 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
28 renewable. These facilities are intended to be only portable or temporary in nature. The primary
29 processing of a forest product, as used in this section, means the use of a portable chipper or stud
30 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
31 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
32 contiguous land where the primary processing facility is located.

33 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
34 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
35 mental Quality together with equipment, facilities or buildings necessary for its operation.

36 (k) Dog kennels not described in subsection (1)(L) of this section.

37 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

38 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
39 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
40 shall not include any species under quarantine by the State Department of Agriculture or the United
41 States Department of Agriculture. The county shall provide notice of all applications under this
42 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
43 county’s land use regulations but shall be mailed at least 20 calendar days prior to any administra-
44 tive decision or initial public hearing on the application.

45 (n) Home occupations as provided in ORS 215.448.

- 1 (o) Transmission towers over 200 feet in height.
- 2 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
- 3 but not resulting in the creation of new land parcels.
- 4 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
- 5 placement of buildings but not resulting in the creation of new land parcels.
- 6 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
- 7 stations and rest areas, where additional property or right of way is required but not resulting in
- 8 the creation of new land parcels.
- 9 (s) A destination resort that is approved consistent with the requirements of any statewide
- 10 planning goal relating to the siting of a destination resort.
- 11 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
- 12 dences.
- 13 (u) A living history museum related to resource based activities owned and operated by a gov-
- 14 ernmental agency or a local historical society, together with limited commercial activities and fa-
- 15 cilities that are directly related to the use and enjoyment of the museum and located within
- 16 authentic buildings of the depicted historic period or the museum administration building, if areas
- 17 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
- 18 the museum administration buildings and parking lot are located within one quarter mile of the
- 19 metropolitan urban growth boundary. As used in this paragraph:
- 20 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
- 21 culture of some specific historic period using authentic buildings, tools, equipment and people to
- 22 simulate past activities and events; and
- 23 (B) "Local historical society" means the local historical society, recognized as such by the
- 24 county governing body and organized under ORS chapter 65.
- 25 (v) Operations for the extraction and bottling of water.
- 26 (w) An aerial fireworks display business that has been in continuous operation at its current
- 27 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
- 28 permit to sell or provide fireworks.
- 29 (x) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-
- 30 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
- 31 growing and marketing of nursery stock on the land that constitutes farm use.
- 32 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
- 33 a single-family residential dwelling not provided in conjunction with farm use may be established
- 34 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
- 35 the Agricultural Capability Classification System in use by the United States Department of Agri-
- 36 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
- 37 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
- 38 showing all of the following:
- 39 (a) The dwelling or activities associated with the dwelling will not force a significant change in
- 40 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.
- 41 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
- 42 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location
- 43 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
- 44 or location if it can reasonably be put to farm use in conjunction with other land.
- 45 (c) Complies with such other conditions as the governing body or its designee considers neces-

1 sary.

2 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
3 one single-family dwelling, not provided in conjunction with farm use, may be established in any
4 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
5 is not larger than three acres upon written findings showing:

6 (a) The dwelling or activities associated with the dwelling will not force a significant change in
7 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

8 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
9 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
10 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
11 applicable; and

12 (c) The dwelling complies with other conditions considered necessary by the governing body or
13 its designee.

14 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
15 body shall notify:

16 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
17 tablished; and

18 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
19 imposed by the county to cover the cost of such notice.

20 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
21 following the date of postmark of the notice to file a written objection on the grounds only that the
22 dwelling or activities associated with it would force a significant change in or significantly increase
23 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
24 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
25 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
26 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
27 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
28 this section.

29 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
30 1948, and July 1, 1983. For the purposes of this section:

31 (a) Only one lot or parcel exists if:

32 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
33 scribed in this section; and

34 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
35 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
36 or in tenancy in common.

37 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
38 but not limited to, lots, parcels or lots and parcels separated only by a public road.

39 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
40 retain a life estate in a dwelling on that property and in a tract of land under and around the
41 dwelling.

42 (9) No final approval of a nonfarm use under this section shall be given unless any additional
43 taxes imposed upon the change in use have been paid.

44 (10) Roads, highways and other transportation facilities and improvements not allowed under
45 subsections (1) and (2) of this section may be established, subject to the approval of the governing

1 body or its designee, in areas zoned for exclusive farm use subject to:

2 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
3 goal with which the facility or improvement does not comply; or

4 (b) ORS 215.296 for those uses identified by rule of the [*Land Conservation and Development*
5 *Commission as provided in section 3, chapter 529, Oregon Laws 1993*] **regional land use planning**
6 **commission for the region, as described in section 2 of this 2007 Act.**

7 **SECTION 72.** ORS 215.263 is amended to read:

8 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
9 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
10 governing body or its designee of the county in which the land is situated. The governing body of
11 a county by ordinance shall require such prior review and approval for such divisions of land within
12 exclusive farm use zones established within the county.

13 (2) The governing body of a county or its designee may approve a proposed division of land to
14 create parcels for farm use as defined in ORS 215.203 if it finds:

15 (a) That the proposed division of land is appropriate for the continuation of the existing com-
16 mercial agricultural enterprise within the area; or

17 (b) The parcels created by the proposed division are not smaller than the minimum size estab-
18 lished under ORS 215.780.

19 (3) The governing body of a county or its designee may approve a proposed division of land in
20 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283
21 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for
22 the use. The governing body may establish other criteria as it considers necessary.

23 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined
24 in ORS 215.010, the governing body of a county or its designee:

25 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
26 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
27 vided in conjunction with farm use if:

28 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

29 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
30 created prior to July 1, 2001;

31 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
32 the minimum size established under ORS 215.780;

33 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
34 complies with the minimum size established under ORS 215.780; and

35 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
36 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
37 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
38 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
39 forest use in conjunction with other land.

40 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
41 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

42 (A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

43 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
44 created prior to July 1, 2001;

45 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or

1 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

2 (D) The parcels for the nonfarm dwellings are:

3 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;

4 and

5 (ii) Composed of at least 90 percent Class VI through VIII soils;

6 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;

7 and

8 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
9 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
10 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
11 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
12 forest use in conjunction with other land.

13 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

14 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
15 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
16 vided in conjunction with farm use if:

17 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

18 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
19 created prior to July 1, 2001;

20 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
21 the minimum size established under ORS 215.780;

22 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
23 complies with the minimum size established under ORS 215.780; and

24 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
25 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
26 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
27 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
28 forest use in conjunction with other land.

29 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
30 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

31 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

32 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
33 created prior to July 1, 2001;

34 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
35 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

36 (D) The parcels for the nonfarm dwellings are:

37 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;

38 and

39 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
40 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
41 for grazing livestock. The *[Land Conservation and Development]* **regional land use planning** com-
42 mission **for the region, as described in section 2 of this 2007 Act**, in cooperation with the State
43 Department of Agriculture and other interested persons, may establish by rule objective criteria for
44 identifying units of land that are not capable of producing adequate herbaceous forage for grazing
45 livestock. In developing the criteria, the **regional** commission shall use the latest information from

1 the United States Natural Resources Conservation Service and consider costs required to utilize
 2 grazing lands that differ in acreage and productivity level;

3 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
 4 and

5 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 6 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 7 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 8 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 9 forest use in conjunction with other land.

10 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
 11 the boundaries designated for a farm use zone at the time the zone is established.

12 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
 13 of land resulting from foreclosure of recorded contracts for the sale of real property.

14 (8) The governing body of a county may not approve any proposed division of a lot or parcel
 15 described in ORS 215.213 (1)(e) or (k), 215.283 (1)(e) or (2)(L) or 215.284 (1), or a proposed division
 16 that separates a processing facility from the farm operation specified in ORS 215.213 (1)(x) or 215.283
 17 (1)(u).

18 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
 19 use zone to create a parcel with an existing dwelling to be used:

20 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
 21 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

22 (b) For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).

23 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
 24 prove a proposed division of land provided:

25 (A) The land division is for the purpose of allowing a provider of public parks or open space,
 26 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
 27 and

28 (B) A parcel created by the land division that contains a dwelling is large enough to support
 29 continued residential use of the parcel.

30 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

31 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

32 (B) May not be considered in approving or denying an application for siting any other dwelling;

33 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
 34 redesignation or rezoning to allow a public park, open space or other natural resource use; and

35 (D) May not be smaller than 25 acres unless the purpose of the land division is:

36 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
 37 wildlife habitat protection plan; or

38 (ii) To allow a transaction in which at least one party is a public park or open space provider,
 39 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
 40 acres of open space or park property.

41 (11) The governing body of a county or its designee may approve a division of land smaller than
 42 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
 43 provided:

44 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
 45 with the church;

1 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

2 (c) The newly created lot or parcel is not larger than five acres; and

3 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
4 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
5 parcel.

6 (12) The governing body of a county may not approve a division of land for nonfarm use under
7 subsection (3), (4), (5), (9), (10) or (11) of this section unless any additional tax imposed for the
8 change in use has been paid.

9 (13) Parcels used or to be used for training or stabling facilities may not be considered appro-
10 priate to maintain the existing commercial agricultural enterprise in an area where other types of
11 agriculture occur.

12 **SECTION 73.** ORS 215.275 is amended to read:

13 215.275. (1) A utility facility established under ORS 215.213 (1)(d) or 215.283 (1)(d) is necessary
14 for public service if the facility must be sited in an exclusive farm use zone in order to provide the
15 service.

16 (2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS
17 215.213 (1)(d) or 215.283 (1)(d) must show that reasonable alternatives have been considered and that
18 the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

19 (a) Technical and engineering feasibility;

20 (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if
21 it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reason-
22 ably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

23 (c) Lack of available urban and nonresource lands;

24 (d) Availability of existing rights of way;

25 (e) Public health and safety; and

26 (f) Other requirements of state or federal agencies.

27 (3) Costs associated with any of the factors listed in subsection (2) of this section may be con-
28 sidered, but cost alone may not be the only consideration in determining that a utility facility is
29 necessary for public service. Land costs shall not be included when considering alternative locations
30 for substantially similar utility facilities. The [*Land Conservation and Development*] **regional land**
31 **use planning commission for the region, as described in section 2 of this 2007 Act**, shall deter-
32 mine by rule how land costs may be considered when evaluating the siting of utility facilities that
33 are not substantially similar.

34 (4) The owner of a utility facility approved under ORS 215.213 (1)(d) or 215.283 (1)(d) shall be
35 responsible for restoring, as nearly as possible, to its former condition any agricultural land and
36 associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair
37 or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility fa-
38 cility from requiring a bond or other security from a contractor or otherwise imposing on a con-
39 tractor the responsibility for restoration.

40 (5) The governing body of the county or its designee shall impose clear and objective conditions
41 on an application for utility facility siting under ORS 215.213 (1)(d) or 215.283 (1)(d) to mitigate and
42 minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in
43 order to prevent a significant change in accepted farm practices or a significant increase in the cost
44 of farm practices on the surrounding farmlands.

45 (6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas

1 pipelines and associated facilities authorized by and subject to regulation by the Federal Energy
2 Regulatory Commission.

3 **SECTION 74.** ORS 215.278 is amended to read:

4 215.278. (1) The [*Land Conservation and Development*] **regional land use planning** commission
5 **for the region, as described in section 2 of this 2007 Act**, shall revise administrative rules re-
6 garding dwellings customarily provided in conjunction with farm use to allow, under ORS 215.213
7 and 215.283, the establishment of accessory dwellings needed to provide opportunities for
8 farmworker housing for individuals primarily engaged in farm use whose assistance in the manage-
9 ment of the farm is or will be required by the farm operator on the farm unit.

10 (2) As used in this section, “farm unit” means the contiguous and noncontiguous tracts in com-
11 mon ownership used by the farm operator for farm use as defined in ORS 215.203.

12 **SECTION 75.** ORS 215.282 is amended to read:

13 215.282. The [*Land Conservation and Development*] **regional land use planning** commission **for**
14 **the region, as described in section 2 of this 2007 Act**, shall consider the findings of ORS 215.281
15 and adopt rules that provide standards for the review of a primary or accessory dwelling custom-
16 arily provided in conjunction with a commercial dairy farm. Notwithstanding any other administra-
17 tive rule establishing a gross farm income standard, the rules adopted under this section shall allow
18 the siting of a dwelling on a commercial dairy farm prior to the dairy earning any gross farm in-
19 come.

20 **SECTION 76.** ORS 215.283 is amended to read:

21 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

22 (a) Public or private schools, including all buildings essential to the operation of a school.

23 (b) Churches and cemeteries in conjunction with churches.

24 (c) The propagation or harvesting of a forest product.

25 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
26 not including commercial facilities for the purpose of generating electrical power for public use by
27 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
28 may be established as provided in ORS 215.275.

29 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
30 farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild,
31 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
32 operator does or will require the assistance of the relative in the management of the farm use and
33 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
34 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
35 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
36 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
37 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
38 shall operate as a partition of the homesite to create a new parcel.

39 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
40 farm use.

41 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
42 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
43 compressors, separators and other customary production equipment for an individual well adjacent
44 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
45 an exception under ORS 197.732 (1)(a) or (b).

1 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
 2 construction relating to such operations shall not be a basis for an exception under ORS 197.732
 3 (1)(a) or (b).

4 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
 5 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
 6 necessary for its operation.

7 (j) The breeding, kenneling and training of greyhounds for racing.

8 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

9 (L) Reconstruction or modification of public roads and highways, including the placement of
 10 utility facilities overhead and in the subsurface of public roads and highways along the public right
 11 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
 12 would occur, or no new land parcels result.

13 (m) Temporary public road and highway detours that will be abandoned and restored to original
 14 condition or use at such time as no longer needed.

15 (n) Minor betterment of existing public road and highway related facilities such as maintenance
 16 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
 17 public-owned property utilized to support the operation and maintenance of public roads and high-
 18 ways.

19 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
 20 been listed in a county inventory as historic property as defined in ORS 358.480.

21 (p) Creation of, restoration of or enhancement of wetlands.

22 (q) A winery, as described in ORS 215.452.

23 (r) Farm stands if:

24 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
 25 farm operation, or grown on the farm operation and other farm operations in the local agricultural
 26 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
 27 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
 28 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
 29 and

30 (B) The farm stand does not include structures designed for occupancy as a residence or for
 31 activity other than the sale of farm crops or livestock and does not include structures for banquets,
 32 public gatherings or public entertainment.

33 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

34 (A) Has intact exterior walls and roof structure;

35 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
 36 a sanitary waste disposal system;

37 (C) Has interior wiring for interior lights;

38 (D) Has a heating system; and

39 (E) In the case of replacement:

40 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
 41 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
 42 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
 43 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
 44 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
 45 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the

1 deed records for the county where the property is located a deed restriction prohibiting the siting
2 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
3 a statement of release is placed in the deed records for the county. The release shall be signed by
4 the county or its designee and state that the provisions of this paragraph regarding replacement
5 dwellings have changed to allow the siting of another dwelling. The county planning director or the
6 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
7 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
8 and release statements filed under this paragraph; and

9 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
10 ished within three months after the deferred replacement permit is issued. A deferred replacement
11 permit allows construction of the replacement dwelling at any time. If, however, the established
12 dwelling is not removed or demolished within three months after the deferred replacement permit
13 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
14 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
15 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
16 or otherwise, except by the applicant to the spouse or a child of the applicant.

17 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
18 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
19 area or placed on a permanent foundation unless the building or facility preexisted the use approved
20 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
21 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
22 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
23 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
24 ground.

25 (u) A facility for the processing of farm crops located on a farm operation that provides at least
26 one-quarter of the farm crops processed at the facility. The building established for the processing
27 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
28 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
29 activities within another building supporting farm uses. A processing facility shall comply with all
30 applicable siting standards but the standards shall not be applied in a manner that prohibits the
31 siting of the processing facility.

32 (v) Fire service facilities providing rural fire protection services.

33 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
34 associated with a district as defined in ORS 540.505.

35 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
36 cilities or structures that end at the point where the utility service is received by the customer and
37 that are located on one or more of the following:

38 (A) A public right of way;

39 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
40 jacent property owners has been obtained; or

41 (C) The property to be served by the utility.

42 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
43 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
44 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
45 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,

1 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
2 exclusive farm use zone under this chapter.

3 (z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
4 provide rural law enforcement services primarily in rural areas, including parole and post-prison
5 supervision, but not including a correctional facility as defined under ORS 162.135.

6 (2) The following nonfarm uses may be established, subject to the approval of the governing body
7 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

8 (a) Commercial activities that are in conjunction with farm use but not including the processing
9 of farm crops as described in subsection (1)(u) of this section.

10 (b) Operations conducted for:

11 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
12 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

13 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
14 sources subject to ORS 215.298;

15 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

16 (D) Processing of other mineral resources and other subsurface resources.

17 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
18 approval of the county governing body or its designee, a private campground may provide yurts for
19 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
20 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
21 foundation. Upon request of a county governing body, the *[Land Conservation and Development]* **re-**
22 **gional land use planning** commission for the region, as described in section 2 of this 2007 Act,
23 may provide by rule for an increase in the number of yurts allowed on all or a portion of the
24 campgrounds in a county if the **regional** commission determines that the increase will comply with
25 the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
26 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
27 internal cooking appliance.

28 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
29 ORS 195.120.

30 (e) Community centers owned by a governmental agency or a nonprofit community organization
31 and operated primarily by and for residents of the local rural community. A community center au-
32 thorized under this paragraph may provide services to veterans, including but not limited to emer-
33 gency and transitional shelter, preparation and service of meals, vocational and educational
34 counseling and referral to local, state or federal agencies providing medical, mental health, disability
35 income replacement and substance abuse services, only in a facility that is in existence on January
36 1, 2006. The services may not include direct delivery of medical, mental health, disability income
37 replacement or substance abuse services.

38 (f) Golf courses.

39 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

40 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
41 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
42 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
43 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
44 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
45 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be

1 granted through waiver action by the Oregon Department of Aviation in specific instances. A
2 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
3 ject to any applicable rules of the Oregon Department of Aviation.

4 (i) Home occupations as provided in ORS 215.448.

5 (j) A facility for the primary processing of forest products, provided that such facility is found
6 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
7 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
8 renewable. These facilities are intended to be only portable or temporary in nature. The primary
9 processing of a forest product, as used in this section, means the use of a portable chipper or stud
10 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
11 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
12 contiguous land where the primary processing facility is located.

13 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
14 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
15 mental Quality together with equipment, facilities or buildings necessary for its operation.

16 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
17 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
18 hardship suffered by the existing resident or a relative of the resident. Within three months of the
19 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
20 ished or, in the case of an existing building, the building shall be removed, demolished or returned
21 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
22 view of the hardship claimed under this paragraph. A temporary residence approved under this
23 paragraph is not eligible for replacement under subsection (1)(s) of this section.

24 (m) Transmission towers over 200 feet in height.

25 (n) Dog kennels not described in subsection (1)(j) of this section.

26 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

27 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
28 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
29 shall not include any species under quarantine by the State Department of Agriculture or the United
30 States Department of Agriculture. The county shall provide notice of all applications under this
31 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
32 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
33 tive decision or initial public hearing on the application.

34 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
35 but not resulting in the creation of new land parcels.

36 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
37 placement of buildings but not resulting in the creation of new land parcels.

38 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
39 stations and rest areas, where additional property or right of way is required but not resulting in
40 the creation of new land parcels.

41 (t) A destination resort that is approved consistent with the requirements of any statewide
42 planning goal relating to the siting of a destination resort.

43 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
44 dences.

45 (v) Operations for the extraction and bottling of water.

1 (w) Expansion of existing county fairgrounds and activities directly relating to county
2 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

3 (x) A living history museum related to resource based activities owned and operated by a gov-
4 ernmental agency or a local historical society, together with limited commercial activities and fa-
5 cilities that are directly related to the use and enjoyment of the museum and located within
6 authentic buildings of the depicted historic period or the museum administration building, if areas
7 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
8 the museum administration buildings and parking lot are located within one quarter mile of an ur-
9 ban growth boundary. As used in this paragraph:

10 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
11 culture of some specific historic period using authentic buildings, tools, equipment and people to
12 simulate past activities and events; and

13 (B) "Local historical society" means the local historical society recognized by the county gov-
14 erning body and organized under ORS chapter 65.

15 (y) An aerial fireworks display business that has been in continuous operation at its current
16 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
17 permit to sell or provide fireworks.

18 (z) A landscaping business, as defined in ORS 671.520, or a business providing landscape archi-
19 tecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
20 growing and marketing of nursery stock on the land that constitutes farm use.

21 (3) Roads, highways and other transportation facilities and improvements not allowed under
22 subsections (1) and (2) of this section may be established, subject to the approval of the governing
23 body or its designee, in areas zoned for exclusive farm use subject to:

24 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
25 goal with which the facility or improvement does not comply; or

26 (b) ORS 215.296 for those uses identified by rule of the [*Land Conservation and Development*
27 *Commission as provided in section 3, chapter 529, Oregon Laws 1993*] **regional land use planning**
28 **commission for the region, as described in section 2 of this 2007 Act.**

29 **SECTION 77.** ORS 215.304 is amended to read:

30 215.304. (1) The **Department** of Land Conservation and Development [*Commission*] shall not
31 adopt or implement any rule to identify or designate small-scale farmland or secondary land.

32 (2) Amendments required to conform rules to the provisions of subsection (1) of this section and
33 ORS 215.700 to 215.780 shall be adopted by March 1, 1994.

34 (3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213,
35 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.700
36 to 215.780 on March 1, 1994:

37 (a) Shall not be implemented or enforced; and

38 (b) Has no legal effect.

39 **SECTION 78.** ORS 215.457 is amended to read:

40 215.457. A person may establish a youth camp on land zoned for forest use or mixed farm and
41 forest use, consistent with rules adopted by the [*Land Conservation and Development Commission*
42 *under section 3, chapter 586, Oregon Laws 1999*] **regional land use planning commission for the**
43 **region, as described in section 2 of this 2007 Act.**

44 **SECTION 79.** ORS 215.459 is amended to read:

45 215.459. (1)(a) Subject to the approval of the county governing body or its designee, a private

1 campground may be established in an area zoned for forest use or mixed farm and forest use. Subject
2 to the approval of the county governing body or its designee, the campground may provide yurts for
3 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
4 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
5 foundation.

6 (b) A public park or campground may be established as provided in ORS 195.120 in an area
7 zoned for forest use or mixed farm and forest use.

8 (2) Upon request of a county governing body, the *[Land Conservation and Development]* **regional**
9 **land use planning** commission **for the region, as described in section 2 of this 2007 Act**, may
10 provide by rule for an increase in the number of yurts allowed on all or a portion of the
11 campgrounds in a county if the **regional** commission determines that the increase will comply with
12 the standards described in ORS 215.296 (1).

13 (3) As used in this section, “yurt” means a round, domed shelter of cloth or canvas on a
14 collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

15 **SECTION 80.** ORS 215.503 is amended to read:

16 215.503. (1) As used in this section, “owner” means the owner of the title to real property or the
17 contract purchaser of real property, of record as shown on the last available complete tax assess-
18 ment roll.

19 (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by
20 the governing body of a county shall be by ordinance.

21 (3) Except as provided in subsection (6) of this section and in addition to the notice required
22 by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on
23 an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to
24 adopt a new comprehensive plan, the governing body of a county shall cause a written individual
25 notice of land use change to be mailed to each owner whose property would have to be rezoned in
26 order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

27 (4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40
28 days before the date of the first hearing on an ordinance that proposes to rezone property, the
29 governing body of a county shall cause a written individual notice of land use change to be mailed
30 to the owner of each lot or parcel of property that the ordinance proposes to rezone.

31 (5) An additional individual notice of land use change required by subsection (3) or (4) of this
32 section shall be approved by the governing body of the county and shall describe in detail how the
33 proposed ordinance would affect the use of the property. The notice shall:

34 (a) Contain substantially the following language in boldfaced type across the top of the face
35 page extending from the left margin to the right margin:

36 _____

37 _____

38 This is to notify you that (governing body of the county) has proposed a land use regulation that
39 may affect the permissible uses of your property and other properties.

40 _____

41 _____

42 (b) Contain substantially the following language in the body of the notice:

43 _____

44 _____

45 On (date of public hearing), (governing body) will hold a public hearing regarding the adoption

1 of Ordinance Number _____. The (governing body) has determined that adoption of this ordinance
2 may affect the permissible uses of your property, and other properties in the affected zone, and may
3 change the value of your property.

4 Ordinance Number _____ is available for inspection at the_____ County Courthouse lo-
5 cated at _____. A copy of Ordinance Number _____ also is available for purchase at a
6 cost of _____.

7 For additional information concerning Ordinance Number _____, you may call the (governing
8 body) Planning Department at_____-_____.
9 _____

10
11 (6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use
12 regulation by the governing body of a county pursuant to a requirement of periodic review of the
13 comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall
14 cause a written individual notice of the land use change to be mailed to the owner of each lot or
15 parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in
16 detail how the ordinance or plan amendment may affect the use of the property. The notice also
17 shall:

18 (a) Contain substantially the following language in boldfaced type across the top of the face
19 page extending from the left margin to the right margin:
20 _____

21
22 This is to notify you that (governing body of the county) has proposed a land use that may affect
23 the permissible uses of your property and other properties.
24 _____

25
26 (b) Contain substantially the following language in the body of the notice:
27 _____

28
29 As a result of an order of the **Department of** Land Conservation and Development
30 [Commission], (governing body) has proposed Ordinance Number _____. (Governing Body) has de-
31 termined that the adoption of this ordinance may affect the permissible uses of your property, and
32 other properties in the affected zone, and may change the value of your property.

33 Ordinance Number _____ will become effective on (date).

34 Ordinance Number _____ is available for inspection at the_____ County Courthouse located
35 at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of
36 _____.

37 For additional information concerning Ordinance Number _____, you may call the (governing
38 body) Planning Department at_____-_____.
39 _____

40
41 (7) Notice provided under this section may be included with the tax statement required under
42 ORS 311.250.

43 (8) Notwithstanding subsection (7) of this section, the governing body of a county may provide
44 notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all
45 persons for whom notice is required under subsections (3) and (4) of this section.

1 (9) For purposes of this section, property is rezoned when the governing body of the county:

2 (a) Changes the base zoning classification of the property; or

3 (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously
4 allowed in the affected zone.

5 (10) The provisions of this section do not apply to legislative acts of the governing body of the
6 county resulting from action of the Legislative Assembly, [or] the Land Conservation and Develop-
7 ment Commission **or a regional land use planning commission, as described in section 2 of this**
8 **2007 Act**, for which notice is provided under ORS 197.047, or resulting from an order of a court of
9 competent jurisdiction.

10 (11) The governing body of the county is not required to provide more than one notice under
11 this section to a person who owns more than one lot or parcel affected by a change to the local
12 comprehensive plan or land use regulation.

13 (12) The Department of Land Conservation and Development shall reimburse the governing body
14 of a county for all usual and reasonable costs incurred to provide notice required under subsection
15 (6) of this section.

16 **SECTION 81.** ORS 215.740 is amended to read:

17 215.740. (1) If a dwelling is not allowed under ORS 215.720 (1), a dwelling may be allowed on
18 land zoned for forest use under a goal protecting forestland if it complies with other provisions of
19 law and is sited on a tract:

20 (a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection (3) of
21 this section; or

22 (b) In western Oregon of at least 160 contiguous acres except as provided in subsection (3) of
23 this section.

24 (2) For purposes of subsection (1) of this section, a tract shall not be considered to consist of
25 less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

26 (3)(a) An owner of tracts that are not contiguous but are in the same county or adjacent coun-
27 ties and zoned for forest use may add together the acreage of two or more tracts to total 320 acres
28 or more in eastern Oregon or 200 acres or more in western Oregon to qualify for a dwelling under
29 subsection (1) of this section.

30 (b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this subsection,
31 the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records for the
32 tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall preclude all future rights
33 to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of
34 dwellings for present and any future owners unless the tract is no longer subject to protection under
35 goals for agricultural lands or forestlands.

36 (c) The [*Land Conservation and Development*] **regional land use planning commission for the**
37 **region, as described in section 2 of this 2007 Act**, shall adopt rules that prescribe the language
38 of the deed restriction, the procedures for recording, the procedures under which counties shall keep
39 records of lots or parcels used to create the total, the mechanisms for providing notice to subse-
40 quent purchasers of the limitations under paragraph (b) of this subsection and other rules to imple-
41 ment this section.

42 **SECTION 82.** ORS 215.780 is amended to read:

43 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
44 parcel sizes apply to all counties:

45 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

1 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

2 (c) For land designated forestland, at least 80 acres.

3 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
4 of this section in any of the following circumstances:

5 (a) By demonstrating to the [*Land Conservation and Development*] **regional land use planning**
6 **commission for the region, as described in section 2 of this 2007 Act**, that it can do so while
7 continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals
8 adopted under ORS 197.230.

9 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed
10 farm and forest use, subject to the following requirements:

11 (A) The parcel established shall not be larger than five acres, except as necessary to recognize
12 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

13 (B) The dwelling existed prior to June 1, 1995;

14 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-
15 dards of the zone; or

16 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and
17 together the parcels meet the minimum land division standards of the zone; and

18 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-
19 sequently authorized by law or goal.

20 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for
21 mixed farm and forest use the following requirements apply:

22 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

23 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for
24 special assessment under a program under ORS chapter 321.

25 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and
26 215.283 that are not allowed on forestland.

27 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that
28 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this
29 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

30 (A) Shall not be eligible for siting of a new dwelling;

31 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

32 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of
33 resource lands;

34 (D) Shall not result in a parcel of less than 35 acres, except:

35 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-
36 ernmental agency; or

37 (ii) Where the purpose of the land division is to allow transactions in which at least one par-
38 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

39 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in
40 a parcel less than the minimum lot or parcel size of the zone.

41 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under
42 a statewide planning goal protecting forestland if:

43 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

44 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(t)
45 or 215.283 (1)(s);

1 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two
2 and five acres in size;

3 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and

4 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-
5 striction prohibiting the landowner and the landowner's successors in interest from further dividing
6 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel
7 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of
8 release is signed by the county planning director of the county in which the lot or parcel is located
9 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have
10 been changed so that the lot or parcel is no longer subject to statewide planning goals protecting
11 forestland or unless the land division is subsequently authorized by law or by a change in a state-
12 wide planning goal for land zoned for forest use or mixed farm and forest use.

13 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
14 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record
15 shall be readily available to the public.

16 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
17 dwelling on the lot or parcel was approved under:

18 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
19 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

20 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
21 use zone under a statewide planning goal protecting forestland.

22 (5) A county with a minimum lot or parcel size acknowledged by the **regional** commission **for**
23 **the region** pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic
24 review requirements under ORS 197.628, 197.633 and 197.636 that is smaller than those prescribed
25 in subsection (1) of this section need not comply with subsection (2) of this section.

26 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall
27 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
28 recorded with the county clerk of the county where the property is located. An applicant for the
29 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-
30 striction on the newly created parcel has been recorded with the county clerk of the county where
31 the property is located. The restriction shall allow no dwellings unless authorized by law or goal
32 on land zoned for forest use except as permitted under subsection (2) of this section.

33 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release
34 is signed by the county planning director of the county where the property is located indicating that
35 the comprehensive plan or land use regulations applicable to the property have been changed in
36 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-
37 cultural land or forestland.

38 (c) The county planning director shall maintain a record of parcels that do not qualify for the
39 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily
40 available to the public.

41 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
42 ment that shall be recorded with the county clerk of the county in which the property is located,
43 declaring that the landowner and the landowner's successors in interest will not in the future com-
44 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

45 **SECTION 83.** ORS 223.317 is amended to read:

1 223.317. (1) Notwithstanding any other law, a local government may apportion a final assessment
 2 levied by it against a single tract or parcel of real property among all the parcels formed from a
 3 subsequent partition or other division of that tract or parcel, if the subsequent partition or division
 4 is in accordance with ORS 92.010 to 92.190 and is consistent with all applicable comprehensive plans
 5 as acknowledged by the [*Land Conservation and Development*] **regional commission for the region**
 6 under ORS 197.251. The proportionate distribution of a final assessment authorized under this sub-
 7 section may be made whenever the final assessment remains wholly or partially unpaid, and full
 8 payment or an installment payment is not due.

9 (2) A local government shall apportion a final assessment under this section when requested to
 10 do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the
 11 partition or other division of the larger tract of real property against which the final assessment
 12 was originally levied. When the deed, mortgage or other instrument evidencing the applicant's
 13 ownership or other interest in the parcel has not been recorded by the county clerk of the county
 14 in which the parcel is situated, the local government shall not apportion the final assessment unless
 15 the applicant files a true copy of that deed, mortgage or instrument with the local government.

16 (3) Apportionment of a final assessment under this section shall be done in accordance with an
 17 order or resolution of the governing body of the local government. The order or resolution shall
 18 describe each parcel of real property affected by the apportionment, the amount of the final assess-
 19 ment levied against each parcel, the owner of each parcel and such additional information as is re-
 20 quired to keep a permanent and complete record of the final assessments and the payments thereon.
 21 A copy of the order or resolution shall be filed with the recorder required to maintain the lien
 22 docket for the local government, who shall make any necessary changes or entries in the lien docket
 23 for the local government.

24 **SECTION 84.** ORS 227.186 is amended to read:

25 227.186. (1) As used in this section, "owner" means the owner of the title to real property or the
 26 contract purchaser of real property, of record as shown on the last available complete tax assess-
 27 ment roll.

28 (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by
 29 a city shall be by ordinance.

30 (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40
 31 days before the date of the first hearing on an ordinance that proposes to amend an existing com-
 32 prehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause
 33 a written individual notice of a land use change to be mailed to each owner whose property would
 34 have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance
 35 becomes effective.

36 (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordi-
 37 nance that proposes to rezone property, a city shall cause a written individual notice of a land use
 38 change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to
 39 rezone.

40 (5) An additional individual notice of land use change required by subsection (3) or (4) of this
 41 section shall be approved by the city and shall describe in detail how the proposed ordinance would
 42 affect the use of the property. The notice shall:

43 (a) Contain substantially the following language in boldfaced type across the top of the face
 44 page extending from the left margin to the right margin:

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This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number _____. The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the **Department of** Land Conservation and Development [Commission], (city) has proposed Ordinance Number _____. (City) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city)

1 Planning Department at _____.

2 _____
3
4 (7) Notice provided under this section may be included with the tax statement required under
5 ORS 311.250.

6 (8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any
7 time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is re-
8 quired under subsections (3) and (4) of this section.

9 (9) For purposes of this section, property is rezoned when the city:

10 (a) Changes the base zoning classification of the property; or

11 (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously
12 allowed in the affected zone.

13 (10) The provisions of this section do not apply to legislative acts of the governing body of the
14 city resulting from action of the Legislative Assembly, [or] the Land Conservation and Development
15 Commission **or a regional land use planning commission, as described in section 2 of this 2007**
16 **Act**, for which notice is provided under ORS 197.047 or resulting from an order of a court of com-
17 petent jurisdiction.

18 (11) The governing body of the city is not required to provide more than one notice under this
19 section to a person who owns more than one lot or parcel affected by a change to the local com-
20 prehensive plan or land use regulation.

21 (12) The Department of Land Conservation and Development shall reimburse a city for all usual
22 and reasonable costs incurred to provide notice required under subsection (6) of this section.

23 **SECTION 85.** ORS 244.050 is amended to read:

24 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
25 Government Standards and Practices Commission a verified statement of economic interest as re-
26 quired under this chapter:

27 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
28 Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and mem-
29 bers of the Legislative Assembly.

30 (b) Any judicial officer, including justices of the peace and municipal judges, except municipal
31 judges in those cities where a majority of the votes cast in the subject city in the 1974 general
32 election was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws
33 1974 (special session), and except any pro tem judicial officer who does not otherwise serve as a
34 judicial officer.

35 (c) Any candidate for an office designated in paragraph (a) or (b) of this subsection.

36 (d) The Deputy Attorney General.

37 (e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
38 Secretary of the Senate and the Chief Clerk of the House of Representatives.

39 (f) The Chancellor and Vice Chancellors of the Oregon University System and the president and
40 vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the
41 State Board of Higher Education.

42 (g) The following state officers:

43 (A) Adjutant General.

44 (B) Director of Agriculture.

45 (C) Manager of State Accident Insurance Fund Corporation.

- 1 (D) Water Resources Director.
- 2 (E) Director of Department of Environmental Quality.
- 3 (F) Director of Oregon Department of Administrative Services.
- 4 (G) State Fish and Wildlife Director.
- 5 (H) State Forester.
- 6 (I) State Geologist.
- 7 (J) Director of Human Services.
- 8 (K) Director of the Department of Consumer and Business Services.
- 9 (L) Director of the Department of State Lands.
- 10 (M) State Librarian.
- 11 (N) Administrator of Oregon Liquor Control Commission.
- 12 (O) Superintendent of State Police.
- 13 (P) Director of the Public Employees Retirement System.
- 14 (Q) Director of Department of Revenue.
- 15 (R) Director of Transportation.
- 16 (S) Public Utility Commissioner.
- 17 (T) Director of Veterans' Affairs.
- 18 (U) Executive Director of Oregon Government Standards and Practices Commission.
- 19 (V) Director of the State Department of Energy.
- 20 (W) Director and each assistant director of the Oregon State Lottery.
- 21 (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- 22 (i) Every elected city or county official except elected officials in those cities or counties where
- 23 a majority of votes cast in the subject city or county in any election on the issue of filing statements
- 24 of economic interest under this chapter was in opposition.
- 25 (j) Every member of a city or county planning, zoning or development commission except such
- 26 members in those cities or counties where a majority of votes cast in the subject city or county at
- 27 any election on the issue of filing statements of economic interest under this chapter was in oppo-
- 28 sition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special ses-
- 29 sion).
- 30 (k) The chief executive officer of a city or county who performs the duties of manager or prin-
- 31 cipal administrator of the city or county except such employees in those cities or counties where a
- 32 majority of votes cast in the subject city or county in an election on the issue of filing statements
- 33 of economic interest under this chapter was in opposition.
- 34 (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 35 (m) Every member of a governing body of a metropolitan service district and the executive of-
- 36 ficer thereof.
- 37 (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 38 (o) The chief administrative officer and the financial officer of each common and union high
- 39 school district, education service district and community college district.
- 40 (p) Every member of the following state boards and commissions:
- 41 (A) Board of Geologic and Mineral Industries.
- 42 (B) Oregon Economic and Community Development Commission.
- 43 (C) State Board of Education.
- 44 (D) Environmental Quality Commission.
- 45 (E) Fish and Wildlife Commission of the State of Oregon.

- 1 (F) State Board of Forestry.
- 2 (G) Oregon Government Standards and Practices Commission.
- 3 (H) Oregon Health Policy Commission.
- 4 (I) State Board of Higher Education.
- 5 (J) Oregon Investment Council.
- 6 (K) Land Conservation and Development Commission **or a regional land use planning com-**
- 7 **mission, as described in section 2 of this 2007 Act.**
- 8 (L) Oregon Liquor Control Commission.
- 9 (M) Oregon Short Term Fund Board.
- 10 (N) State Marine Board.
- 11 (O) Mass transit district boards.
- 12 (P) Energy Facility Siting Council.
- 13 (Q) Board of Commissioners of the Port of Portland.
- 14 (R) Employment Relations Board.
- 15 (S) Public Employees Retirement Board.
- 16 (T) Oregon Racing Commission.
- 17 (U) Oregon Transportation Commission.
- 18 (V) Wage and Hour Commission.
- 19 (W) Water Resources Commission.
- 20 (X) Workers' Compensation Board.
- 21 (Y) Oregon Facilities Authority.
- 22 (Z) Oregon State Lottery Commission.
- 23 (AA) Pacific Northwest Electric Power and Conservation Planning Council.
- 24 (BB) Columbia River Gorge Commission.
- 25 (CC) Oregon Health and Science University Board of Directors.
- 26 (q) The following officers of the State Treasury:
- 27 (A) Chief Deputy State Treasurer.
- 28 (B) Executive Assistant to the State Treasurer.
- 29 (C) Director of the Investment Division.
- 30 (r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 31 and 777.915 to 777.953.
- 32 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 33 on a board or commission listed in subsection (1) of this section shall file with the commission a
- 34 statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
- 35 (3) By April 15 next after the filing deadline for the primary election, each candidate for elective
- 36 public office described in subsection (1) of this section shall file with the commission a statement
- 37 of economic interest as required under ORS 244.060, 244.070 and 244.090.
- 38 (4) Within 30 days after the filing deadline for the general election, each candidate for elective
- 39 public office described in subsection (1) of this section who was not a candidate in the preceding
- 40 primary election, or who was nominated for elective public office described in subsection (1) of this
- 41 section at the preceding primary election by write-in votes, shall file with the commission a state-
- 42 ment of economic interest as required under ORS 244.060, 244.070 and 244.090.
- 43 (5) The Legislative Assembly shall maintain a continuing review of the operation of this chapter.
- 44 (6) Subsections (1) to (5) of this section apply only to persons who are incumbent, elected or
- 45 appointed officials as of April 15 and to persons who are candidates for office on April 15. Those

1 sections also apply to persons who do not become candidates until 30 days after the filing deadline
 2 for the statewide general election.

3 (7)(a) Failure to file the statement required by this section subjects a person to a civil penalty
 4 that may be imposed as specified in ORS 183.745, but the enforcement of this subsection does not
 5 require the Oregon Government Standards and Practices Commission to follow the procedures in
 6 ORS 244.260 before finding that a violation of this section has occurred.

7 (b) Failure to file the required statement in timely fashion shall be prima facie evidence of a
 8 violation of this section.

9 (c) If within five days after the date on which the statement is to be filed under this section the
 10 statement has not been received by the commission, the commission shall notify the public official
 11 and give the public official not less than 15 days to comply with the requirements of this section.
 12 If the public official fails to comply by the date set by the commission, the commission may impose
 13 a civil penalty of \$5 for each day the statement is late beyond the date fixed by the commission.
 14 The maximum penalty that may be accrued under this section is \$1,000.

15 (d) A civil penalty imposed under this subsection is in addition to and not in lieu of sanctions
 16 that may be imposed under ORS 244.380.

17 **SECTION 86.** ORS 284.577 is amended to read:

18 284.577. In furtherance of the state economic development strategy developed under ORS
 19 284.570, the [*Land Conservation and Development*] **regional land use planning commission for the**
 20 **region, as described in section 2 of this 2007 Act**, shall:

21 (1) Provide local governments with basic and advanced methods for identifying, analyzing and
 22 providing for industrial, commercial and retail development sites.

23 (2) Develop and provide guidebooks and other appropriate materials to assist local governments
 24 in identifying and analyzing potential industrial, commercial and retail development sites.

25 (3) Provide local governments with technical assistance to assist in completing the identification
 26 and analysis and in amending comprehensive plans and land use regulations based on the identifi-
 27 cation and analysis.

28 (4) Provide grants to local governments in a manner that furthers the implementation of the
 29 state economic development strategy.

30 (5) Adopt, amend or repeal administrative rules and procedures as necessary to ensure that the
 31 following actions can be accomplished in a timely manner:

32 (a) Expansion of urban growth boundaries where necessary to accommodate industrial or traded
 33 sector development;

34 (b) Review of amendments to comprehensive plans and land use regulations and periodic review
 35 of comprehensive plans and land use regulations; and

36 (c) Focus the resources of the Department of Land Conservation and Development on issues
 37 related to land supply within urban growth boundaries and transportation and public facilities nec-
 38 essary to stimulate economic growth.

39 **SECTION 87.** ORS 285C.500 is amended to read:

40 285C.500. As used in ORS 285C.500 to 285C.506:

41 (1) "Business firm" has the meaning given that term in ORS 285C.050.

42 (2) "County per capita personal income" means the per capita personal income level published
 43 by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

44 (3) "County unemployment rate" means the most recently available unemployment rate for the
 45 county, as determined by the Employment Department.

1 (4) “Facility” means the land, real property improvements and personal property that are used
 2 by a business firm to conduct business operations, and that are the subject of an application for
 3 preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

4 (5) “Qualified location” means any area that is:

5 (a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or
 6 fewer residents; and

7 (b) Located in a county that, during either of the two years preceding the date an application
 8 for preliminary certification is filed under ORS 285C.503, had both:

9 (A) A county unemployment rate that was in the highest quartile of county unemployment rates
 10 in this state; and

11 (B) A county per capita personal income that was in the lowest third of county per capita per-
 12 sonal incomes in this state.

13 (6) “Urban growth boundary” means an urban growth boundary contained in a city or county
 14 comprehensive plan that has been acknowledged by the [*Land Conservation and Development*] **re-**
 15 **gional** commission **for the region** pursuant to ORS 197.251 or an urban growth boundary that has
 16 been adopted by a metropolitan service district under ORS 268.390 (3).

17 **SECTION 88.** ORS 285C.500, as amended by section 1, chapter 595, Oregon Laws 2005, is
 18 amended to read:

19 285C.500. As used in ORS 285C.500 to 285C.506:

20 (1) “Business firm” has the meaning given that term in ORS 285C.050.

21 (2) “County per capita personal income” means the per capita personal income level published
 22 by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

23 (3) “County unemployment rate” means the most recently available unemployment rate for the
 24 county, as determined by the Employment Department.

25 (4) “Facility” means the land, real property improvements and personal property that are used
 26 by a business firm to conduct business operations, and that are the subject of an application for
 27 preliminary certification under ORS 285C.503 or annual certification under ORS 285C.506.

28 (5) “Qualified location” means any area that is:

29 (a) Zoned for industrial use or is within the urban growth boundary of a city that has 15,000 or
 30 fewer residents; and

31 (b) Located in a county that, during either of the two years preceding the date an application
 32 for preliminary certification is filed under ORS 285C.503, had both:

33 (A) A county unemployment rate that was in the top half of county unemployment rates in this
 34 state; and

35 (B) A county per capita personal income that was in the bottom half of county per capita per-
 36 sonal incomes in this state.

37 (6) “Urban growth boundary” means an urban growth boundary contained in a city or county
 38 comprehensive plan that has been acknowledged by the [*Land Conservation and Development*] **re-**
 39 **gional** commission **for the region** pursuant to ORS 197.251 or an urban growth boundary that has
 40 been adopted by a metropolitan service district under ORS 268.390 (3).

41 **SECTION 89.** ORS 308A.065 is amended to read:

42 308A.065. (1) Upon written request of the county assessor or county governing body, the county
 43 counsel shall review the zoning ordinances of the county that purport to establish exclusive farm
 44 use zones to determine if any zone mentioned in the ordinance is not an exclusive farm use zone.
 45 If the county counsel is in doubt as to whether a zone is an exclusive farm use zone, the county

1 counsel shall request the assistance of the Department of Revenue under ORS 305.110. The county
 2 counsel shall promptly notify the county assessor and county governing body by letter of the
 3 findings of the county counsel.

4 (2) If the assessor discovers any land that has been granted farm use special assessment under
 5 ORS 308A.062 that is not qualified for such assessment because the zone is not an exclusive farm
 6 use zone, the assessor shall immediately notify the county governing body of this fact.

7 (3) Within six months from the date the county governing body receives notice from the assessor
 8 or from the **Department of Land Conservation and Development** [*Commission*] that a farm use zone
 9 is not an exclusive farm use zone, the county governing body shall qualify the zone as an exclusive
 10 farm use zone within the meaning of ORS 308A.062. The assessor shall continue to assess the land
 11 at the special assessment provided in ORS 308A.107 until the county governing body qualifies the
 12 zone or the land is disqualified under ORS 308A.113.

13 (4) Subsections (1) to (3) of this section shall provide the exclusive procedure for correcting the
 14 erroneous granting of farm use special assessment as exclusive farm use zone farmland when the
 15 zone does not meet the definition of an exclusive farm use zone under ORS 308A.053.

16 **SECTION 90.** ORS 308A.350 is amended to read:

17 308A.350. As used in ORS 308A.350 to 308A.383:

18 (1) "Owner" means the party or parties having the fee interest in land, except that where land
 19 is subject to a real estate sales contract, "owner" means the contract vendee under a recorded
 20 contract.

21 (2) "Department" means the State Department of Fish and Wildlife.

22 (3) "Designated riparian land" means the beds of streams, the adjacent vegetation communities,
 23 and the land thereunder, which are predominantly influenced by their association with water, not
 24 to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately
 25 owned and which qualify for exemption under ORS 308A.350 to 308A.383.

26 (4) "Urban growth boundary" means an urban growth boundary contained in a city or county
 27 comprehensive plan that has been acknowledged by the [*Land Conservation and Development*] **re-**
 28 **gional commission for the region** pursuant to ORS 197.251 or an urban growth boundary that has
 29 been adopted by a metropolitan service district council under ORS 268.390 (3).

30 **SECTION 91.** ORS 308A.700 is amended to read:

31 308A.700. As used in ORS 308A.700 to 308A.733:

32 (1) "Disqualification" includes the removal of forestland designation under ORS 321.359, 321.712,
 33 321.716 or 321.842.

34 (2) "Urban growth boundary" means an urban growth boundary contained in a city or county
 35 comprehensive plan that has been acknowledged by the [*Land Conservation and Development*] **re-**
 36 **gional commission for the region** pursuant to ORS 197.251 or an urban growth boundary that has
 37 been adopted by a metropolitan service district under ORS 268.390 (3).

38 **SECTION 92.** ORS 383.017 is amended to read:

39 383.017. (1) The Department of Transportation may award any contract, franchise, license or
 40 agreement related to a tollway project, other than a concession for the provision of goods or ser-
 41 vices at a rest area, under a competitive process or by private negotiation with one or more entities,
 42 or by any combination of competition and negotiation without regard to any other laws concerning
 43 the procurement of goods or services for projects of the state.

44 (2) When using a competitive process for the award of a tollway project contract, the depart-
 45 ment shall consider the following factors in addition to the proposer's estimate of cost:

1 (a) The quality of the design, if applicable, submitted by a proposer. In considering the quality
2 of the design of a tollway project, the department shall take into consideration:

3 (A) The structural integrity of the design, including the probable effect of the design on the fu-
4 ture costs of maintenance of the tollway;

5 (B) The aesthetic qualities of the design, including such factors as the width of lane separators,
6 landscaping and sound walls;

7 (C) The traffic capacity of the design;

8 (D) The aspects of the design that affect safety, such as the lane width, the quality of lane
9 markers and separators, the shape and positioning of ramps and curves and the changes in elevation;
10 and

11 (E) The ease with which traffic will be able to pass through the toll collection facilities.

12 (b) The extent to which small businesses will be involved in the tollway project. The department
13 shall encourage participation by small businesses to the maximum extent the department determines
14 is practicable. As used in this paragraph, "small business" means an independent business with
15 fewer than 20 employees and with average annual gross receipts over the last three years not ex-
16 ceeding \$1 million for construction firms and \$300,000 for nonconstruction firms. "Small business"
17 does not include a subsidiary or parent company belonging to a group of firms that are owned and
18 controlled by the same individuals and that have average aggregate annual gross receipts in excess
19 of \$1 million for construction firms or \$300,000 for nonconstruction firms over the last three years.

20 (c) The financial stability of the proposer and the ability of the proposer to provide funding for
21 the tollway project and surety for its performance and financial obligations with respect to the
22 tollway project.

23 (d) The experience of the proposer and its subcontractors in building and operating projects
24 such as the tollway project.

25 (e) The terms of the financial arrangement proposed or accepted by the proposer with respect
26 to franchise fees, license fees, lease payments or operating expenses and the proposer's required rate
27 of return from its operation or maintenance of the tollway.

28 (3)(a) The department may adopt rules and procedures for the award of franchises, licenses,
29 leases or other concessions for rest areas without regard to any other laws concerning the pro-
30 curement of goods or services for projects of the state. All such franchises, licenses, leases or other
31 concessions shall require the franchisee, licensee, lessee or concessionaire, as applicable, to main-
32 tain the subject premises in accordance with all applicable state and federal health and safety
33 standards, to maintain one or more policies of casualty and property insurance and adequate work-
34 ers' compensation insurance, and to pay and discharge all taxes, utilities, fees and other charges or
35 claims that are levied, assessed or charged against the premises or concession or that may become
36 a lien upon the premises. The rules shall encourage participation by small businesses to the maxi-
37 mum extent the department determines is practicable. The department may grant any small business
38 a 10 percent or greater bid advantage in any bidding process for a concession.

39 (b) As used in this subsection, "small business" means an independent business with fewer than
40 20 employees and with average annual gross receipts over the last three years not exceeding
41 \$300,000. "Small business" does not include a subsidiary or parent company belonging to a group
42 of firms that are owned and controlled by the same individuals and that have average aggregate
43 annual gross receipts in excess of \$300,000 over the last three years. "Small business" also does not
44 include a franchise of any business that has average aggregate annual gross receipts in excess of
45 \$300,000 over the last three years.

1 (4) Notwithstanding any other provision of this section, the department may use any method for
2 the award of any contract, franchise, license or agreement that is necessary to comply with the re-
3 quirements of any grant or other funding source.

4 (5) If public funds are involved in the project, construction of a tollway project shall be subject
5 to the prevailing wage requirements of ORS 279C.800 to 279C.870.

6 (6) For purposes of complying with applicable state and local land use laws, including statewide
7 planning goals, comprehensive plans, land use regulations, ORS chapters 195, 196, 197, 198, 199, 215,
8 221, 222 and 227, and any requirement imposed by the **Department of Land Conservation and De-**
9 **velopment** [*Commission*], a tollway project shall be treated as a project of the Department of
10 **Transportation** and not as a project of any other person or entity.

11 (7) Tollways, and any related facilities that would normally be purchased, constructed or in-
12 stalled by the department if the tollway were a conventional highway that was constructed and op-
13 erated by the department, shall be exempt from ad valorem property taxation.

14 (8) Tollways are considered state highways for purposes of law enforcement and application of
15 the Oregon Vehicle Code.

16 **SECTION 93.** ORS 390.322 is amended to read:

17 390.322. (1) Following the preparation of the plan or any segment thereof under ORS 390.318, the
18 State Parks and Recreation Department shall submit such plan or segment to the [*Land Conservation*
19 *and Development*] **regional land use planning commission for the region, as described in section**
20 **2 of this 2007 Act.** The **regional** commission shall investigate and review such plan or segment as
21 it considers necessary. If the **regional** commission finds that the plan or segment complies with ORS
22 390.310 to 390.368, it shall approve the plan or segment. If the **regional** commission finds revision
23 of any part of the submitted plan or segment to be necessary, it may revise the plan or segment it-
24 self or require such revision by the department and units of local government.

25 (2) Upon approval of the plan for the Willamette River Greenway or segment thereof, the **re-**
26 **gional** commission shall cause copies of such plan or segment to be filed with the recording officer
27 for each county having lands within the Willamette River Greenway situated within its boundaries.
28 Such plan or segment filed as required by this subsection shall be retained in the office of the
29 county recording officer open for public inspection during reasonable business hours.

30 (3) If the plan for the Willamette River Greenway is prepared and approved in segments, the
31 total of all such approved segments shall constitute the plan for the Willamette River Greenway for
32 the purposes of ORS 390.310 to 390.368. The department and units of local government, with the
33 approval of the **regional** commission, may revise the plan for the Willamette River Greenway from
34 time to time.

35 **SECTION 94.** ORS 468A.363 is amended to read:

36 468A.363. The Legislative Assembly declares the purpose of ORS 468A.363, 468A.365, 468A.400
37 and 815.300 is to:

38 (1) [*Insure*] **Ensure** that the health of citizens in the Portland area is not threatened by recur-
39 ring air pollution conditions.

40 (2) Provide necessary authority to the Environmental Quality Commission to implement one of
41 the critical elements of the air quality maintenance strategy for the Portland area related to im-
42 provements in the motor vehicle inspection program.

43 (3) [*Insure*] **Ensure** that the Department of Environmental Quality is able to submit an
44 approvable air quality maintenance plan for the Portland area through the year 2006 to the Envi-
45 ronmental Protection Agency as soon as possible so that area can again be designated as an at-

1 tainment area and impediments to industrial growth imposed in the Clean Air Act can be removed.

2 (4) Direct the Environmental Quality Commission to use existing authority to incorporate the
 3 following programs for emission reduction credits into the air quality maintenance plan for the
 4 Portland area:

5 (a) California or United States Environmental Protection Agency emission standards for new
 6 lawn and garden equipment sold in the Portland area.

7 (b) Transportation-efficient land use requirements of the transportation planning rule adopted
 8 by the **Department of** Land Conservation and Development [*Commission*].

9 (c) Improvements in the vehicle inspection program as authorized in ORS 468A.350 to 468A.400,
 10 including emission reduction from on-road vehicles resulting from enhanced testing, elimination of
 11 exemptions for 1974 and later model year vehicles, and expansion of inspection program boundaries.

12 (d) An employer trip reduction program that provides an emission reduction from on-road vehi-
 13 cles.

14 (e) A parking ratio program that limits the construction of new parking spaces for employment,
 15 retail and commercial locations.

16 (f) Emission reductions resulting from any new federal motor vehicle fuel tax.

17 (g) State and federal alternative fuel vehicles fleet programs that result in emission reductions.

18 (h) Installation of maximum achievable control technology by major sources of hazardous air
 19 pollutants as required by the federal Clean Air Act, as amended, resulting in emission reductions.

20 (i) As a safety margin, or as a substitute in whole or in part for other elements of the plan,
 21 emission reductions resulting from any new state gasoline tax or for any new vehicle registration
 22 fee that allows use of revenue for air quality improvement purposes.

23 **SECTION 95.** ORS 469.320 is amended to read:

24 469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be
 25 constructed or expanded unless a site certificate has been issued for the site thereof in the manner
 26 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be
 27 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,
 28 469.590 to 469.619, 469.930 and 469.992.

29 (2) A site certificate is not required for:

30 (a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had
 31 operable electric generating equipment for a modification that uses the same fuel type and increases
 32 electric generating capacity, if:

33 (A) The site is not enlarged; and

34 (B) The ability of the energy facility to use fuel for electricity production under peak steady
 35 state operating conditions is not more than 200 million Btu per hour greater than it was on August
 36 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy
 37 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

38 (b) Construction or expansion of any interstate natural gas pipeline or associated underground
 39 natural gas storage facility authorized by and subject to the continuing regulation of the Federal
 40 Energy Regulatory Commission or successor agency.

41 (c) An energy facility, except coal and nuclear power plants, if the energy facility:

42 (A) Sequentially produces electrical energy and useful thermal energy from the same fuel source;
 43 and

44 (B) Under normal operating conditions, has a useful thermal energy output of no less than 33
 45 percent of the total energy output or the fuel chargeable to power heat rate value is not greater

1 than 6,000 Btu per kilowatt hour.

2 (d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site cer-
3 tificate has been issued by the State of Oregon, of radioactive waste from the plant.

4 (e) An energy facility as defined in ORS 469.300 (11)(a)(G), if the plant also produces a secondary
5 fuel used on site for the production of heat or electricity, if the output of the primary fuel is less
6 than six billion Btu of heat a day.

7 (f) An energy facility as defined in ORS 469.300 (11)(a)(G), if the facility:

8 (A) Exclusively uses grain, whey, potatoes, oil seeds, waste vegetable oil or cellulosic biomass
9 as the source of material for conversion to a liquid fuel;

10 (B) Has received local land use approval under the applicable acknowledged comprehensive plan
11 and land use regulations of the affected local government and the facility complies with any state-
12 wide planning goals or rules of the **Department of** Land Conservation and Development [*Commis-*
13 *sion*] that are directly applicable to the facility;

14 (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would
15 require a site certificate under subsection (1) of this section; and

16 (D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling
17 facility located within one mile of the facility or is transported from the facility by rail or barge.

18 (g) A standby generation facility, if the facility complies with all of the following:

19 (A) The facility has received local land use approval under the applicable acknowledged com-
20 prehensive plan and land use regulations of the affected local government and the facility complies
21 with all statewide planning goals and applicable rules of the **Department of** Land Conservation and
22 Development [*Commission*];

23 (B) The standby generators have been approved by the Department of Environmental Quality
24 as having complied with all applicable air and water quality requirements. For an applicant that
25 proposes to provide the physical facilities for the installation of standby generators, the requirement
26 of this subparagraph may be met by agreeing to require such a term in the lease contract for the
27 facility; and

28 (C) The standby generators are electrically incapable of being interconnected to the trans-
29 mission grid. For an applicant that proposes to provide the physical facilities for the installation of
30 standby generators, the requirement of this subparagraph may be met by agreeing to require such
31 a term in the lease contract for the facility.

32 (3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable
33 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,
34 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in
35 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power
36 heat rate value for the best available, commercially viable thermal power plant technology at the
37 time of the revision.

38 (4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-
39 emption under subsection (2)(a), (c), (f) or (g) of this section from the requirement to obtain a site
40 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-
41 cility qualifies for the claimed exemption. The council shall make its determination within 60 days
42 after the request for exemption is filed. An appeal from the council's determination on a request for
43 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court
44 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the
45 Supreme Court shall be the record established in the council proceeding on the exemption.

1 (5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-
 2 quired for:

3 (a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if
 4 such related or supporting facilities are addressed in and are subject to a site certificate for another
 5 energy facility;

6 (b) Expansion within the site or within the energy generation area of a facility for which a site
 7 certificate has been issued, if the existing site certificate has been amended to authorize expansion;
 8 or

9 (c) Expansion, either within the site or outside the site, of an existing council certified surface
 10 facility related to an underground gas storage reservoir, if the existing site certificate is amended
 11 to authorize expansion.

12 (6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of
 13 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this
 14 section, the electric generating facility shall cease to operate one year after the substantial loss of
 15 the steam host unless an application for a site certificate has been filed in accordance with the
 16 provisions of ORS 469.300 to 469.563.

17 (7) As used in this section:

18 (a) “Standby generation facility” means an electric power generating facility, including standby
 19 generators and the physical structures necessary to install and connect standby generators, that
 20 provides temporary electric power in the event of a power outage and that is electrically incapable
 21 of being interconnected with the transmission grid.

22 (b) “Total energy output” means the sum of useful thermal energy output and useful electrical
 23 energy output.

24 (c) “Useful thermal energy” means the verifiable thermal energy used in any viable industrial
 25 or commercial process, heating or cooling application.

26 (8) Notwithstanding the definition of “energy facility” in ORS 469.300 (11)(a)(J), an electric
 27 power generating plant with an average electric generating capacity of less than 35 megawatts
 28 produced from wind energy at a single energy facility or within a single energy generation area may
 29 elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590 to
 30 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall be
 31 final upon submission of an application for a site certificate.

32 **SECTION 96.** ORS 469.504 is amended to read:

33 469.504. (1) A proposed facility shall be found in compliance with the statewide planning goals
 34 under ORS 469.503 (4) if:

35 (a) The facility has received local land use approval under the acknowledged comprehensive
 36 plan and land use regulations of the affected local government; or

37 (b) The Energy Facility Siting Council determines that:

38 (A) The facility complies with applicable substantive criteria from the affected local govern-
 39 ment’s acknowledged comprehensive plan and land use regulations that are required by the state-
 40 wide planning goals and in effect on the date the application is submitted, and with any
 41 **Department of** Land Conservation and Development [*Commission*] administrative rules and goals
 42 and any land use statutes that apply directly to the facility under ORS 197.646;

43 (B) For an energy facility or a related or supporting facility that must be evaluated against the
 44 applicable substantive criteria pursuant to subsection (5) of this section, that the proposed facility
 45 does not comply with one or more of the applicable substantive criteria but does otherwise comply

1 with the applicable statewide planning goals, or that an exception to any applicable statewide
2 planning goal is justified under subsection (2) of this section; or

3 (C) For a facility that the council elects to evaluate against the statewide planning goals pur-
4 suant to subsection (5) of this section, that the proposed facility complies with the applicable state-
5 wide planning goals or that an exception to any applicable statewide planning goal is justified under
6 subsection (2) of this section.

7 (2) The council may find goal compliance for a facility that does not otherwise comply with one
8 or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding
9 the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process
10 or any rules of the **Department of** Land Conservation and Development [*Commission*] pertaining to
11 an exception process goal, the council may take an exception to a goal if the council finds:

12 (a) The land subject to the exception is physically developed to the extent that the land is no
13 longer available for uses allowed by the applicable goal;

14 (b) The land subject to the exception is irrevocably committed as described by the rules of the
15 **Department of** Land Conservation and Development [*Commission*] to uses not allowed by the ap-
16 plicable goal because existing adjacent uses and other relevant factors make uses allowed by the
17 applicable goal impracticable; or

18 (c) The following standards are met:

19 (A) Reasons justify why the state policy embodied in the applicable goal should not apply;

20 (B) The significant environmental, economic, social and energy consequences anticipated as a
21 result of the proposed facility have been identified and adverse impacts will be mitigated in ac-
22 cordance with rules of the council applicable to the siting of the proposed facility; and

23 (C) The proposed facility is compatible with other adjacent uses or will be made compatible
24 through measures designed to reduce adverse impacts.

25 (3) If compliance with applicable substantive local criteria and applicable statutes and state
26 administrative rules would result in conflicting conditions in the site certificate or amended site
27 certificate, the council shall resolve the conflict consistent with the public interest. A resolution
28 may not result in a waiver of any applicable state statute.

29 (4) An applicant for a site certificate shall elect whether to demonstrate compliance with the
30 statewide planning goals under subsection (1)(a) or (b) of this section. The applicant shall make the
31 election on or before the date specified by the council by rule.

32 (5) Upon request by the State Department of Energy, the special advisory group established
33 under ORS 469.480 shall recommend to the council, within the time stated in the request, the ap-
34 plicable substantive criteria under subsection (1)(b)(A) of this section. If the special advisory group
35 does not recommend applicable substantive criteria within the time established in the department's
36 request, the council may either determine and apply the applicable substantive criteria under sub-
37 section (1)(b) of this section or determine compliance with the statewide planning goals under sub-
38 section (1)(b)(B) or (C) of this section. If the special advisory group recommends applicable
39 substantive criteria for an energy facility described in ORS 469.300 or a related or supporting fa-
40 cility that does not pass through more than one local government jurisdiction or more than three
41 zones in any one jurisdiction, the council shall apply the criteria recommended by the special advi-
42 sory group. If the special advisory group recommends applicable substantive criteria for an energy
43 facility as defined in ORS 469.300 (11)(a)(C) to (E) or a related or supporting facility that passes
44 through more than one jurisdiction or more than three zones in any one jurisdiction, the council
45 shall review the recommended criteria and determine whether to evaluate the proposed facility

1 against the applicable substantive criteria recommended by the special advisory group, against the
2 statewide planning goals or against a combination of the applicable substantive criteria and state-
3 wide planning goals. In making its determination, the council shall consult with the special advisory
4 group and shall consider:

5 (a) The number of jurisdictions and zones in question;

6 (b) The degree to which the applicable substantive criteria reflect local government consider-
7 ation of energy facilities in the planning process; and

8 (c) The level of consistency of the applicable substantive criteria from the various zones and
9 jurisdictions.

10 (6) The council is not subject to ORS 197.180 and a state agency may not require an applicant
11 for a site certificate to comply with any rules or programs adopted under ORS 197.180.

12 (7) On or before its next periodic review, each affected local government shall amend its com-
13 prehensive plan and land use regulations as necessary to reflect the decision of the council per-
14 taining to a site certificate or amended site certificate.

15 (8) Notwithstanding ORS 34.020 or 197.825 or any other provision of law, the affected local
16 government's land use approval of a proposed facility under subsection (1)(a) of this section and the
17 special advisory group's recommendation of applicable substantive criteria under subsection (5) of
18 this section shall be subject to judicial review only as provided in ORS 469.403. If the applicant
19 elects to comply with subsection (1)(a) of this section, the provisions of this subsection shall apply
20 only to proposed projects for which the land use approval of the local government occurs after the
21 date a notice of intent or an application for expedited processing is submitted to the State Depart-
22 ment of Energy.

23 (9) The State Department of Energy, in cooperation with other state agencies, shall provide, to
24 the extent possible, technical assistance and information about the siting process to local govern-
25 ments that request such assistance or that anticipate having a facility proposed in their jurisdiction.

26